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ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

HELD AT

OTTAWA

VOLUME No.:

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E R R A T A

Volume 107

17791	2	"17%" should be "7%", both cases.
17805	7	"high" should be "low".
	8	"the points" should read "the other points"
17844	2	"based" should be "basic"
	9	"internal" should be "terminal"
17853	25	Add "to" between "west" and "Ontario and Quebec"
17877	13	"possible of" in place of " a moving"

NO EXHIBITS IN THIS VOLUME





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I N D E X

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By Mr. Brazier

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— — — — —

NO EXHIBITS IN THIS VOLUME



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ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held
in the Court Room, Board of
Transport Commissioners
Offices, Ottawa, Ontario, on
the 25th day of October, 1960.

COMMISSION

Mr. M. A. MacPherson, Q.C.	Chairman
Mr. H. Anscomb	Member
Mr. A. H. Balch	Member
Mr. R. Gobeil	Member
Mr. H. A. Mann	Member
Mr. A. Platt	Member

COMMISSION COUNSEL

Mr. A. G. Cooper, Q.C.	
Mr. G. S. Cumming	
Mr. H. W. Ellicott	Adviser
Mr. F. W. Anderson	Secretary
Major N. Lafrance	Assistant Secretary



Ottawa, Ontario,
Tuesday,
October 25, 1960.

-- On commencing at 10:00 a.m.

THE CHAIRMAN: Order, please.

MR. SINCLAIR: Mr. Roberts, during yesterday's proceedings there were two matters, as I recollect, that arose. One was in reference -- it is at page 11715, during the examination of the witness by my friend, Mr. Cooper when reference was made to page 44 of the precis evidence of Mr. Roberts and the request was for the transcript reference that Mr. Roberts was relying on. Have you got that, Mr. Roberts?

THE WITNESS: I have, sir. It is volume 76, page 13404.

MR. SINCLAIR: The other point was some information requested by Commissioner Mann of the witness, and this is at page 17700.

Mr. Mann, Mr. Roberts, was asking you concerning the ale and beer rates. The transcript says "To central Canada"; I think Commissioner Mann said "In central Canada". And you recall that the discussion was that this was a competitive rate, and then it became an agreed charge. The question was as to the level of the rates in relation to the 17% increase.

Have you checked that out as you undertook to do, and can you give the Commission the results of your investigation?

THE WITNESS: I have, sir. The rates on beer and ale within central Canada were published as



1
2 competitive rates and the 17%, the interim 17% increase
3 effective July 3, 1956, was applied to those rates. It
4 was removed effective July 30, 1956. Subsequently,
5 agreed charges were negotiated and these agreed charges
6 became effective. The first one, agreed charge 425,
7 applied from Montreal, Toronto and London to points in
8 Ontario and Quebec and it became effective June 11, 1958.
9 Agreed charge 426 from Montreal only to certain points in
10 Ontario and Quebec became effective June 16, 1958.

11 MR. SINCLAIR: By the way, what percentages
12 were covered?

13 THE WITNESS: Well, the first agreed charge
14 that I mentioned, agreed charge 425, covered 90% of the
15 traffic, and the second agreed charge, No. 426, covered
16 80% of the traffic.

17 THE CHAIRMAN: That was a case of attrition?

18 THE WITNESS: Yes, sir.

19 THE CHAIRMAN: Mr. Brazier?

20 CROSS-EXAMINATION BY MR. BRAZIER (resumed)
21

22 Q. Mr. Roberts, in yesterday's transcript,
23 with reference particularly to page 17749 I had put to
24 you certain rates between Calgary and Edmonton,
25 indicating to you that the rates published by the C.P.R.
26 were lower than the ICC cost figures for western districts?

27 A. The average ICC cost figure, yes.

28 Q. Yes, the average ICC cost. And I put one
29 case to you, the rate of 26¢ as against an ICC cost of
30 34.45¢. Then, at the bottom of the page, you say:

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2

3

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5



1
2 "Those rates were examined by the Board and
3 found to be fully compensatory".

4 A. Yes, sir.

5 Q. I take it you then agree that it follows
6 from those questions and that particular answer that the
7 Canadian Pacific's costs are lower than ~~the~~ ICC average
8 costs are?

9 A. Well, I would not like to make a broad
10 statement like that. We are dealing with a specific
11 movement here, Mr. Brazier. I would not like to make
12 broad statements like that.

13 Q. Well, following through carefully -- the
14 figures indicate that the rates are lower than the
15 average ICC costs?

16 A. In that instance, yes.

17 Q. In that instance. This is all I am
18 referring to; in this instance.

19 A. Yes.

20 Q. And you say that your rates are fully
21 compensatory?

22 A. As so agreed to by the Board.

23 Q. As so agreed to by the Board. Well,
24 therefore, it follows as night follows day that for
25 those specific hauls your costs are less than the ICC
26 costs?

27 MR. SINCLAIR: Of course, Mr. Chairman, that
28 is a non-sequiter, in my submission, that the average
29 costs of the ICC as determined by the ICC is one thing,
30 and the costs in Canada are another. What a specific



1
2 movement would be in the United States would have to be
3 determined in the United States. The United States have
4 only published average costs by districts, and ---

5 MR. BRAZIER: That is what I am asking.

6 MR. SINCLAIR: -- and this does not necessarily
7 follow at all, I suggest, and I think the question is
8 irrelevant.

9 THE CHAIRMAN: Well, your objection is that it
10 is not like with like?

11 MR. SINCLAIR: More than that, with respect,
12 sir. My contention and my position is this, that average
13 costs, ~~taking~~ in various railroads, questions of circuitry,
14 and various other things taken into consideration in
15 these cost studies in the United States in different
16 types of railroads, is not the same as deter-
17 mining a specific movement and the cost of it
18 between two individual points.

19 THE CHAIRMAN: Your contention is that average
20 costs are not arrived at in the same way in both
21 jurisdictions.

22 MR. SINCLAIR: Well, no, sir. I will go
23 further than that and I will say that average costs,
24 the use of averages in determining costs is not worthy
25 of being transferred into specific costs unless you can
26 get some components that are the same, and it is bad
27 enough to do it in Canada, but it is absolutely, I
28 suggest, with all due respect to my friend, the height
29 of --- it is pretty near ridiculous to bring them up
30 from the United States and take average costs in a



1
2 district in the United States and compare them with
3 specific costs of a movement in Canada.

4 COMMISSIONER MANN: Mr. Sinclair, there is,
5 however, some use for average costs, because we heard
6 Mr. Roberts yesterday telling us about these bench marks,
7 and they are nothing more than average costs per ton-mile,
8 per car-mile, and so on. So that if they were available,
9 and this is nothing to do with the American situation
10 now, but your particular statement, if they were
11 available they would be a rough measure; would they not?

12 MR. SINCLAIR: I said, with respect,
13 Commissioner Mann, that it is one thing to take average
14 costs in Canada, which I do not think is too good, if
15 it is a specific movement -- and I do not want to use
16 harsh words, but it seems to me to be ridiculous to
17 take average costs in the United States with an entirely
18 different situation and compare them with specific ones
19 in Canada. That is my objection.

20 THE CHAIRMAN: Go ahead, Mr. Brazier.

21 MR. BRAZIER: Q. I quite appreciate the
22 difference my learned friend is making. All I am saying
23 is these costs are lower than the average costs. I am
24 not attempting to say that the averages in the States
25 would cover a specific movement such as this, but just
26 that it necessarily follows that the specific costs on
27 this movement are less than the average costs in the
28 United States?

29 A. On this movement, yes, sir, compared with
30 average costs in the United States.



1
2 Q. And those particular rates were found to
3 be compensatory by the Board of Transport in 1958, was
4 it?

5 A. 1957, I think.

6 Q. 1957?

7 A. I think it was 1957.

8 Q. And your costs have gone up since that
9 time, Mr. Roberts?

10 A. Yes, sir.

11 Q. Have you re-tested those rates to see that
12 they are compensatory at the present time?

13 A. I have not re-tested them, sir, no.

14 MR. FRAWLEY: If I might interrupt. These are
15 Calgary to Edmonton rates, the witness said, that were
16 placed before the Board and found compensatory. What
17 were the commodities?

18 MR. BRAZIER: The incentive rates.

19 MR. FRAWLEY: Well, there are many, many
20 incentive rates. Which ones are we talking about?

21 THE WITNESS: Well, Mr. Frawley, the incentive
22 rates that were originally published in April of 1957.

23 MR. FRAWLEY: I know something about the
24 incentive rates, but I was not aware of any where there
25 was a particular incentive rate between Calgary and
26 Edmonton, and you now say the Board examined them and
27 said they were compensatory. I want some information,
28 please.

29 THE WITNESS: It was not a specific rate.
30 They were not looking at a specific rate, Mr. Frawley.



1
2 They were looking at the range of these incentive rates
3 in western Canada that were published in April, 1957,
4 and the rates from Winnipeg to Calgary, Edmonton,
5 Saskatoon and Regina were examined. The rates between
6 Calgary and Edmonton were examined; the rates from
7 Edmonton to Saskatoon were examined -- the whole series
8 of rates that were established at that time were
9 examined by the Board.

10 MR. FRAWLEY: It is not fair to interrupt the
11 witness now, but I will ask him some questions later.

12 MR. BRAZIER: I have the particular tariff
13 here I was referring to, Mr. Frawley.

14 Q. You have not re-tested those to see if
15 under present day costs whether they are compensatory
16 or not?

17 A. I have not.

18 Q. I suggest to you that happens in a great
19 many instances, and I do not want to just pick out the
20 Alberta rates, but you put rates in and they remain
21 there, and do you or do you not continue to check them
22 to see that they are compensatory?

23 A. We do.

24 Q. You do?

25 A. We do.

26 Q. But in this particular instance, you have
27 done so?

28 A. We have not done so in this particular
29 instance.

30 Q. And also the rates I cited to you between



1
2 Toronto and Montreal, where the same situation was
3 indicated, you have re-checked those rates since they
4 were put into effect?

5 A. That is right.

6 Q. In 1958?

7 A. Yes, sir.

8 Q. And you find that they are still
9 compensatory rates?

10 A. They are, sir.

11 Q. Now, the cost figures that you supplied
12 to the Board of Transport in those cases, are they
13 prepared in the same manner as the grain study costs
14 are?

15 A. No, sir.

16 Q. They are not?

17 A. No, sir.

18 Q. You apply to them a different sort of
19 test as to whether or not they are compensatory?

20 A. Well now, the cost figures that were
21 applied to the grain cost study were exclusive of the
22 passenger deficit. Now, this is getting out of my
23 field as to what is included in cost figures, Mr.
24 Brazier. I do not compile them. I rely on the Research
25 Department to furnish me with proper figures.

26 Q. But it is your understanding that it is
27 done under a different method than the grain cost study
28 was done?

29 A. Well, I do not know as to method. Let us
30 say that so far as the grain cost study was concerned



1
2 it did not include the passenger deficit. Now that I
3 know.

4 Q. And the other would include it?

5 A. I have no information to the contrary. I
6 would say it did.

7 Q. Now, Mr. Roberts, just turning to your
8 brief again, first, on page 40; the second paragraph
9 under the heading "freight rate structure based on cost
10 of service". You say:

11 "Practical rate men, whether traffic officers
12 of industry or of the railways, are reluctant
13 to depart from a rate making system that they
14 know will work and has resulted in the free
15 movement of traffic on financially sound
16 railways to one that has never been adopted?"

17 A. Yes, sir.

18 Q. Do you think that that paragraph describes
19 the situation that has existed in Canada for the last
20 ten years?

21 A. Yes, I do.

22 Q. Then, I take it that the attempts that
23 have been made by the railway companies from time to
24 time to increase their -- to get a higher permissive
25 level of earnings is not justified; that they are
26 financially sound and that there is no need of
27 concerning ourselves with the soundness of the financial
28 standing of the railways?

29 A. We certainly, I would say, are working
30 towards the permissive level of earnings, sir, and I



1
2 say we will get it if our case that we have made in
3 connection with the statutory rates on grain; if they
4 are increased and with other technological improvements
5 that we hope to put into effect in the future, working
6 towards the elimination of the passenger deficit, I
7 would say, sir, that we will reach our permissive level
8 of earnings.

9 Q. But I go even further than that. As you
10 know, the railways have attempted in the last few years
11 to get a higher level of earnings because the level of
12 earnings they had was not sufficient to keep them
13 financially sound. You recall the base rate of return
14 case?

15 A. Yes.

16 Q. To get a higher return?

17 A. That is right.

18 Q. Then, I take it from your statement that
19 that was not really necessary because they were
20 financially sound railways?

21 A. Well, we are financially sound railways,
22 but the base should be increased to reflect our
23 investment in the property so that we may work towards
24 a level of earnings which are justified in accordance
25 with the investment that there is in the rail enterprise.

26 Q. In other words, you are financially sound
27 but you would like to be sounder?

28 A. That is right.

29 MR. SINCLAIR: Well, I think my friend should
30 be fair to this witness. After all, he is a traffic man,



1
2 and my friend knows that we have under reserve with
3 the Board at the present time this whole question of
4 the permissive level of earnings, and it is under
5 reserve. Mr. Roberts, of course, is not responsible
6 for all that.

7 THE CHAIRMAN: I think Mr. Brazier will be
8 very fair.

9 MR. SINCLAIR: This last question should have,
10 I suggest, been predicated on the actual situation
11 before the Board at the present time .

12 MR. BRAZIER: Mr. Roberts is responsible
13 for the statement made in the brief here, and as a
14 responsible officer of the C.P.R. I presume he means
15 what he says.

16 MR. SINCLAIR: He means what he says, but
17 under the situation existing before the Board, and the
18 losses we have been forced to take out by this
19 tremendous delay of not getting on with our case
20 because of this Commission's long sittings.

21 MR. BRAZIER: Q. On the same page, you speak
22 in the last paragraph of the proposal of the
23 Saskatchewan Board of Trade and the Province of
24 British Columbia and you say both of these proposals
25 were advanced by economists without practical rate
26 making experience or without responsibilities to
27 industry or the railways in regard to the movement of
28 freight traffic, or without responsibility for
29 maintaining financially sound railways.

30 I presume from your statement there, Mr.



1
2 Roberts, that you are indicating this Commission should
3 pay more attention to the practical freight traffic
4 men than to the economists; the theoretical economists?

5 A. Well, sir, we do deal with the problems
6 from day to day. That is my point. And we have been
7 doing so for years.

8 Q. I would like to read you a little bit
9 reported in the Transportation Week, May 7, 1960, a
10 statement attributed to Mr. E.V. Hill from "Traffic
11 World". Mr. Hill is chairman of the Traffic Executive
12 Association, Eastern Railways.

13 Do you know Mr. Hill?

14 A. Yes, I know Mr. Hill.

15 Q. And he is a well informed man on traffic
16 matters in the United States?

17 A. In the United States, that is right.

18 Q. And he is attributed to making this
19 statement, and I am reading from Transportation Week,
20 May 7, 1960:

21 "The purpose of the project, he explained,
22 was to evaluate data 'to find out not only
23 where we are but why and what we should do
24 about it,' and he added:

25 'When these data considered together
26 indicated that the trend of rail participation
27 has been down while the production of a given
28 commodity was rising and that a projection a
29 few years into the future indicated a
30 continued rise, due to population growth,



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Roberts, cr.ex.
(Brazier)

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etc. and where we found freight rates to be
an important element, we set about the task
of finding a rate level which would place
the railroad on the industrial growth line'".



1
2 This next is the part I want particularly to
3 put to you:

4 "This is an important philosophy of rate
5 making which has been sorely neglected in
6 the past. It took a lot in research
7 by non-rail cost-finding and market re-
8 search experts to bring it out into the
9 open."

10 I suggest to you that Mr. Hill probably has a better
11 opinion of the economies and approach in this matter
12 than you have indicated in your brief?

13 A. As I recall yesterday -- you say he
14 has a better opinion -- if you will recall yesterday I
15 said there had to be a melding of the two people, the
16 two trained types of executive or whatever you might wish
17 to call them. In the Canadian Pacific we have been
18 working with our research department for the last ten
19 years to my knowledge on various problems.

20 Q. You have been using the type of man with
21 the same sort of background as Mr. Hughes?

22 A. Yes, but tempered with our practical ex-
23 perience.

24 Q. Going next to page 43 again you get back
25 to a subject that we have talked about yesterday. In
26 the third paragraph you say:

27 "The British Columbia proposal introduces
28 rigidity through the concept of maximum
29 rates on 'captive' traffic."

30 Now, you agreed with me yesterday that we do have maximum



1
2 rates in the rate structure?

3 A. That is right.

4 Q. Why do you say our proposal introduces
5 rigidity, because of the concept of maximum rates?

6 A. Because under the maximum rates on
7 captive traffic as proposed by you, such rates would
8 only -- such maximum rates would only go up to reflect
9 the increase in cost.

10 Q. That is the only reason you say it?

11 A. That is right.

12 Q. Now, there is a statement you make on
13 page 46 that I do not quite understand, the second full
14 paragraph where you say:

15 "It is clear under the British Columbia
16 proposal that if two railways are competing
17 between points A and B and the traffic
18 is 'captive', the maximum rate will be the
19 maximum applicable to the low cost carrier."

20 I think that part is all right. It is the next sentence
21 I do not quite understand:

22 "On the other hand, if 'captive' traffic
23 is not subject to rail competition the
24 maximum between two given points could
25 be that of the high cost rail carrier."

26 Now, as I see it, you are saying if there was only one
27 railway it could be subject to the high cost carrier?

28 A. If there is only one railway the carrier
29 that was high cost carrier between points A and B, well,
30 then, his costs would apply over the movement.



1
2 Q. How could there be a high and low if there
3 is only one carrier between two points?

4 A. Wait a minute now, I am talking about
5 two carriers between A and B, one a low cost carrier and
6 one a high cost carrier. Now, between those two points
7 the high cost carrier would apply. Now, moving with
8 that same high cost carrier to the points the cost of
9 the high cost carrier would apply whereas today the
10 rates are the same.

11 Q. Your suggestion is that today there is
12 in Canada one carrier that has high costs and one that
13 has low costs?

14 A. Well, there would be in certain movements,
15 certainly, and, of course, the Canadian Pacific Railway
16 is always used as the yardstick in all the rate cases.

17 Q. I know that, but your composition, do I
18 state it correctly, there is one high cost railway in
19 Canada and the other is a low cost railway?

20 A. There would be instances where in one
21 case one carrier would be high cost and in the other
22 case the other one would be the high cost carrier.

23 Q. Now, on page 49 of your brief at the
24 end of the first full paragraph you make this statement:

25 "If the British Columbia proposal was
26 adopted the freight rate structure would
27 be much more complex and much more expensive
28 to administer without serving the needs of
29 shippers and railways alike any better
30 than the system now in effect."



1
2 Do you mean to say this, Mr. Roberts, that
3 aside from the problems you foresee as to printing
4 tariffs and putting it into effect that the British
5 Columbia proposal is just as good as the system in
6 effect at the present time?

7 A. No, I would not say so at all.

8 Q. You would not?

9 A. No, sir.

10 Q. So it would always under any circumstances
11 even if there were no problems of complexity about
12 tariffs, in your opinion the British Columbia proposal
13 would still be not as satisfactory as the one presently
14 in use?

15 A. In my estimation that is right.

16 Q. Now, I want to put to you another quotation
17 that is taken from Railway Age Weekly of August 29, 1960,
18 these are magazines that the trade traffic men read all
19 the time?

20 A. That is right.

21 Q. Do you remember reading this one, the
22 article entitled "Railroads to Stay Competitive"?

23 A. No, I have not read it. Probably it
24 is on my table at the back of my desk.

25 Q. You have not had time to read it?

26 A. That is right.

27 Q. It was sent out to twenty-one railway
28 traffic men in the United States, and the article ends
29 up with this statement:

30 "Most of the men queried -- and most



1
2 responsible shippers, too -- would pro-
3 bably agree in general with the three-
4 way approach suggested by the sales vice
5 president of one of the eastern roads.

6 This man outlines three steps:

7 '1) Accelerate the program of modernizing
8 the railroad pricing structure through more
9 practical rate making based on cost of
10 service rather than on what the traffic
11 will bear.' (This, he points out, will
12 probably mean a good many decreases in
13 actual rates, but increases in revenue.

14 Not all of his colleagues necessarily
15 agree entirely with completely cost-based
16 rates, but many of them think -- as he
17 does -- that this general approach will
18 involve more emphasis on such new concepts
19 as quantity, incentive, incremental and,
20 ultimately, contract rates where they can
21 produce profitable volume._

22 '2) A new, realistic set of charges for
23 services accessorial to the actual freight
24 rate.

25 '3) Finding out, through greater know-
26 ledge of specific costs, what commodities
27 are being handled at a loss and increasing
28 these rates so the handling of these com-
29 modities will not be a drain on other
30 railroad revenues.'"



1
2 Would you have agreed had you been confronted
3 with this flat statement of the sales vice president of
4 the eastern railroad who is unidentified?

5 A. He is speaking, of course, of the
6 situation in the United States. I do not agree with
7 that in Canada.

8 Q. You do not agree with that in Canada?

9 A. No, sir.

10 Q. Now, I want to ask you just one or two
11 questions in regard to the present classification.
12 Is there any attempt on the part of the Canadian rail-
13 ways to put incentive rates into the classification
14 itself?

15 A. No, sir, the only use that could be
16 made, in my estimation, for general application of
17 the incentive rate -- I am sorry, I misunderstood your
18 question.

19 Q. As I understand it there are no incentive
20 rates in the classification itself.

21 MR. MAURO: Yes, there is.

22 THE WITNESS: There are two that come to my
23 mind, one is canned goods, 5th Class 30,000 pounds
24 and 6th Class 40,000 pounds. If and when we feel the
25 necessity arises we would, as we have in the past
26 do that.

27 Q. You think the classification as it stands
28 today is quite satisfactory?

29 A. We are always working to improve it.

30 Q. And I put this statement to you and see



1
2 whether or not you would agree with it:

3 " Compulsory classification
4 is more elaborate than desirable for
5 present-day conditions."

6 A. Well, I think it is necessary to take
7 care of the movements that are not regular in and of
8 themselves.

9 Q. You do not agree with it?

10 A. I think we need the classification and
11 will be changing it from time to time as conditions
12 in industry require.

13 Q. Now, going on further:

14 "The principal factors that need to
15 be considered in classification are:
16 (1) kind of cars required; (2) 'load-
17 ability' (e.g. weight in relation to
18 space occupied); (3) empty return ratio;
19 (4) added costs entailed (e.g. loss and
20 damage, or insurance risk). There is
21 no longer any point in classifying
22 commodities in relation to their market
23 value."

24 Would you agree with that statement?

25 A. I would agree that they are factors that
26 enter into it.

27 Q. Would you agree that they are the prin-
28 cipal factors?

29 A. No, there are other factors.

30 Q. The final statement:



1
2 "There is no longer any point in classifying
3 commodities in relation to their market
4 value."

5 Will you agree with that?

6 A. No, I think value has to enter into it.
7 Still it is not emphasized as much as it was originally
8 but it certainly has a place in the evaluating even
9 in the classification that any particular commodity or
10 material should take.

11 Q. I take it in your opinion the develop-
12 ment of the piggyback service is something that is not
13 to be spread further through the rate structure?

14 A. The development of the piggyback service?

15 Q. Yes, you can put any commodity you
16 want in the trailer?

17 A. Well, we will put piggyback service
18 wherever we can handle it and make money.

19 Q. I think we did discuss yesterday the
20 fact that to your knowledge there has never been a
21 submission for increased freight rates because of change
22 in traffic mix or changed conditions other than in-
23 crease in costs?

24 MR. SINCLAIR: That is not what he said
25 yesterday at all, with due respect to my friend.

26 MR. BRAZIER: Q. Well, can you tell me
27 specifically where the railway association applied for
28 an increase in rate due to change in traffic mix?

29 A. I would say it would be included in
30 all our applications, it would be inherent in them by



1
2 the very method of calculating the increase.

3 Q. And they are inherent in every case?

4 A. Yes, sir.

5 Q. Have you ever heard any evidence led
6 as to change in traffic mix?

7 A. Change in traffic mix? Why, of course,
8 I recounted two of them yesterday, sulphur and potash.
9 This sort of traffic mix is occurring every day, not
10 in such large movements but certainly there are changes
11 in the traffic mix from day to day and month to month.

12 Q. Well, it is correct to say that the
13 railways have never applied for an increase in rate
14 solely because of change in traffic mix?

15 A. Well, not within my knowledge that I
16 know of.

17 MR. BRAZIER: Thank you very much.

18 THE CHAIRMAN: Mr. Smith?

19
20 CROSS-EXAMINATION BY MR. SMITH:

21 Q. Mr. Chairman, as Mr. Sinclair mentioned
22 yesterday, I requested that he supply me with certain
23 information relating to statement 310 or Exhibit 162
24 as it now is. He is supplying me with the information
25 but it is not yet available. I anticipate that the
26 information, when supplied, will eliminate a number
27 of questions which I would otherwise have asked Mr.
28 Roberts. However, I intend to ask Mr. Roberts a
29 few questions some of which perhaps may cover partially
30 the information to be supplied. I trust Mr. Sinclair



1
2 will bear with me in this regard and I shall endeavour
3 to avoid duplication as far as possible.

4 THE CHAIRMAN: You always do.

5 MR. SMITH: Q. Well, sometimes our promises
6 are not always fulfilled. Just a few preliminary
7 questions for my own information. Does Exhibit 162
8 include traffic originated on the Dominion Atlantic
9 Railway?

10 A. Yes.

11 Q. And does the term "Ontario-Quebec" used
12 in Exhibit 162 cover the same territory as the term
13 "Eastern Region" used in the Waybill Study?

14 A. It does, sir.

15 Q. They are identical?

16 A. Yes, sir.

17 Q. Now, may I refer to this Exhibit 162
18 and I observe that on lines 21 and 25 you show for
19 agreed charge rates within the maritimes and from
20 Ontario-Quebec to the maritimes an increase of 8.9
21 per cent?

22 A. Within the maritimes we show an increase
23 of 8.9 per cent only.

24 Q. And then from Ontario-Quebec to the
25 maritimes what do you say?

26 A. I am sorry, that is right, 8.9 per cent.

27 Q. They are both 8.9 per cent?

28 A. Yes.

29 Q. These increases are the highest shown on
30 the statement of traffic moving at agreed charge rates,



1
2 are they not?

3 A. That is correct, sir.

4 Q. Now, would you agree that the Canadian
5 Pacific Railway serves only a small part of the maritimes,
6 roughly west of New Brunswick?

7 A. Our coverage is not as extensive as the
8 C.N.R.

9 Q. As I understand it your main track mileage
10 for the C.P.R. itself in the maritimes is about 557 miles.
11 Would you know that of your own information?

12 A. I do not have the information available.

13 Q. And I think the D.A.R. is about 845
14 miles -- the Canadian Pacific and the D.A.R. total
15 845 miles?

16 MR. SINCLAIR: We will accept that.

17 THE CHAIRMAN: And the Canadian National?

18 MR. SMITH: Q. I have not the figures for
19 Canadian National, but the total mileage of the C.P.R.
20 system in Canada, what is that?

21 A. Seventeen thousand-odd miles.

22 Q. And the mileage in the Atlantic provinces,
23 have you information on that of all the railways?

24 A. No, sir.

25 Q. I put to you a figure of 4,163 miles?

26 A. Well, I would accept that figure.

27

28

29

30



1
2 Q. In other words, the C.P.R. mileage in
3 the Atlantic provinces is 20 per cent of the total?

4 A. Yes.

5 Q. Could you tell me, Mr. Roberts, what
6 percentage of the maritime originating traffic shown in
7 Exhibit 162 is of the Waybill sample of all traffic
8 originating in the Atlantic provinces during the period
9 December 1st, 1958 to November 30th, 1959?

10 A. I would have to get that figure for you.

11 Q. You could get it for me?

12 A. Yes.

13 Q. It would be relatively small, wouldn't it?

14 A. In relation to the picture as a whole,
15 it would be small.

16 Q. Yes, because of the fact that the C.P.R.
17 serves a lesser part of the Atlantic provinces?

18 A. That is right.

19 Q. In that respect I suggest it is not
20 representative of all the traffic originating in the
21 maritimes?

22 A. Well, we are presenting the picture ---

23 Q. You are presenting the case for the C.P.R.;
24 I understand.

25 A. . . . so far as the C.P.R. is concerned,
26 yes.

27 Q. May I refer you to line 12 of your
28 Exhibit 162 in which it is shown that the competitive
29 rated traffic moving from the maritimes to Ontario and
30 Quebec produces more revenue than normal rated traffic



1
2 that is shown on line 2. I suggest that is not
3 representative of traffic generally?

4 A. Excuse me, we are speaking of line 12,
5 which is the maritimes?

6 Q. Maritimes to Ontario and Quebec.

7 A. You are talking of total revenue --
8 \$16,000?

9 Q. \$16,310.46.

10 A. Yes.

11 Q. And on line 2, \$9,204.84?

12 A. That is correct, in relation to dollars,
13 yes.

14 Q. In relation to dollars, yes?

15 A. Yes.

16 Q. What I am suggesting is that that fact
17 is not representative of traffic generally from the
18 maritimes region to the eastern region. Could you
19 speak as to that or would that be matters within your
20 knowledge?

21 A. Well, of course, this is a sample, and
22 it is ---

23 Q. This is a sample that you found, but what
24 I am suggesting is that it is not representative of all
25 traffic?

26 A. We are moving a lot of traffic from the
27 maritimes to Ontario and Quebec at competitive rates.

28 Q. I will give you an example: the
29 \$16,310.46 of revenue shown in line 12 is, as I calculate
30 it, about 46 per cent of the revenue of all traffic moving



1
2 from the maritimes to Ontario and Quebec, and that is
3 shown as \$35,002.77?

4 A. Yes.

5 Q. And I say the amount shown in line 12
6 is 46 per cent of the amount shown in line 32?

7 A. That is right.

8 Q. You refer to the 1959 Waybill Analysis:
9 the competitive rated traffic moving from the maritime
10 region to the eastern region, I am instructed, produces
11 only 16 per cent of the revenue of traffic moving from
12 the maritimes to Ontario and Quebec?

13 A. Could I get ?

14 Q. The Waybill Study shows \$39,063 and
15 the total is \$240,000.

16 A. Where is that?

17 Q. I will just show you this; it is a
18 little hard to follow, I admit. I am saying that
19 is 16 per cent?

20 A. Yes.

21 MR. SINCLAIR: That is an addition of non-
22 competitive and agreed charges, and competitive as a
23 ratio of the total?

24 MR. SMITH: That is right.

25 THE WITNESS: You have done some figuring.

26 MR. SINCLAIR: Subject to check, yes.

27 MR. SMITH: Very well, subject to check.

28 Q. In other words, your ratio is much
29 greater than shown in the Waybill Study?

30 A. That is right; 16 per cent in the Waybill



1
2 Study and roughly 40 per cent ---

3 Q. Forty-six per cent?

4 A. Forty-six per cent in this sample here.
5 This, of course, is Canadian Pacific, again, we must
6 remember, whereas the Waybill Study ---

7 Q. I quite agree with that: you are putting
8 in the figures from your own company?

9 A. That is right.

10 Q. But I am trying to point out it is not
11 representative of the traffic which moves to and from
12 the maritimes?

13 A. Well, I imagine there is more traffic
14 moves from Atlantic points on the Canadian National
15 Railways in Nova Scotia.

16 Q. Yes. Now, just a few questions of
17 a general nature. On page 7 of your brief you
18 state, among other things, that a general rate increase
19 must not favour a shipper of one commodity over a
20 shipper of a competing product?

21 A. That is correct.

22 Q. I suggest to you that the present method
23 favours the shipper of one commodity over the shipper
24 of a competing product, and I will instance this sug-
25 gestion of mine: say a manufacturer in Toronto, for
26 example, is selling stoves in Montreal; he can escape
27 the rate increase because of competition, in many
28 cases, and, in fact, in this case, while the manu-
29 facturer at Sackville, New Brunswick, selling a
30 competing line of stoves in Montreal must bear the



1
2 full amount of the increase; is that not correct?

3 A. Well, he can escape the increase and,
4 likewise, I would say there are opportunities for the
5 man in Sackville to escape the increase too.

6 Q. By what method?

7 A. By some competing mode of transportation
8 -- by truck.

9 Q. But if there is no competing mode of
10 transportation?

11 A. Well, if there is not a competing mode
12 of transportation, of course the increase would apply
13 to his rate.

14 Q. In any event, due to competition you
15 have the same situation, have you not -- one shipper of
16 one commodity is being preferred over a shipper of the
17 same commodity?

18 A. No, sir, not preferred at all.

19 Q. Well, I suggest he is; but we differ
20 on that point?

21 A. Yes.

22 Q. Mr. Roberts, in discussing horizontal
23 rate increases with hold downs, on page 21 and the
24 following pages you state, at page 22, that these
25 horizontal increases with hold downs would result in
26 some traffic that can take the full increase not doing
27 so thus unfairly placing on other traffic an additional
28 burden, and you go on to say this would be so because
29 the reduction through the application of the hold down
30 would have to be reflected in a higher percentage of



1
2 increase and all traffic to which the hold down did not
3 apply would have to pay that higher percentage increase
4 and thus provide the revenue lost by not applying the
5 increase proportionately to all the traffic involved.
6 That is the statement in your brief at page 22 and the
7 following pages?

8 A. That is correct.

9 Q. I suggest to you under the present
10 horizontal method of rate increases traffic which is
11 subject to intense competition is able in many cases to
12 escape a rate increase in full or in part and is, there-
13 fore, subject to what amounts to a hold down?

14 A. Well, if you apply the hold down, that
15 hold down governs on all of the traffic that is covered
16 by the hold down. When you apply a straight general
17 percentage increase, in some cases, of course, due to
18 competition we have to take all or part of the increase
19 off a particular rate or rates, but we do retain the
20 full increase on other portions of the traffic. If we
21 apply the hold down we would lose that increase on
22 this balance of the traffic.

23 Q. I am suggesting to you that the present
24 method of horizontal increases across the board is one
25 which contains competitive hold downs, and I suggest it
26 unfairly places an additional burden on traffic not
27 subject to intense competition; do you agree with that
28 statement?

29 A. No, I don't say the present method con-
30 tains hold downs at all. We apply the increase across



1
2 the board to all movements of traffic and it may be
3 necessary -- and in places it is necessary -- to remove
4 all or part of it. This is not the application of a
5 hold down principle. It is just a question of meeting
6 competition.

7 Q. But in essence it has the same result
8 as a hold down, due to competition, as you say?

9 A. No, sir, I could not agree with that.

10 Q. My suggestion to you, then, is that
11 because the reduction through the application of the
12 competitive hold downs -- what I call competitive hold
13 downs -- has to be reflected in a higher percentage of
14 increase, and all traffic to which a competitive hold
15 down does not apply has to pay that increase and thus
16 it provides the revenue lost by not applying the in-
17 crease proportionately to all the traffic involved?

18 A. No, sir, I don't agree because if you
19 apply a hold down you have to make up the difference
20 on the other traffic. It just means that your per-
21 centage portion of the increase is higher. It applies
22 to short haul traffic and you make that more susceptible
23 to trucking.

24 Q. What I suggest, and I don't expect you
25 will agree with it, is that the present method of applying
26 horizontal rate increases has the same objectionable
27 features that you state you found in horizontal in-
28 creases with hold downs?

29 A. I don't agree with that.

30 Q. I didn't expect you would, sir. Could I



1
2 refer you to page 38 where you deal with the question
3 of "At and East" grain rates? My understanding is,
4 and you can correct me if I am wrong, that these
5 rates were originally established for the movement
6 of all Canadian grain -- to encourage the movement of
7 Canadian grain via Canadian routes and Canadian ports?

8 A. That is correct.

9 Q. In your brief you mention the United
10 States railroads reduced the grain rates from such
11 places as Buffalo and New York and other Atlantic
12 ports to meet seaway competition?

13 A. That is correct.

14 Q. The question I am about to ask is, will
15 this mean that Canadian export grain will tend to
16 move via U.S. ports?

17 A. We don't think so.

18 Q. Routes and ports?

19 A. We don't think so, otherwise it would
20 have started to move before this. The lower rates
21 in effect from Buffalo have been in for a year now
22 and we haven't any evidence of a move over to United
23 States ports.

24 Q. I suggest that an increase in the
25 Canadian rates will tend to divert further Canadian
26 export grain to U. S. ports, or indeed from Atlantic
27 ports to other Canadian ports?

28 A. I don't think it will.

29 Q. You don't think so?

30 A. No, sir.



1
2 Q. My understanding is that the movement
3 of grain to Halifax and Saint John was for grain
4 parcels in the liner trade; is that right?

5 A. Well, the elevators are there filled
6 with grain and they provide a cargo for ships which
7 call at Halifax and Saint John.

8 Q. And take part cargo?

9 A. Yes.

10 Q. But if there is a diversion of Canadian
11 grain to other ports, isn't it probable the liners
12 calling at Saint John and Halifax will be diverted to
13 other ports?

14 A. You say if there is a diversion, and I
15 don't think there will be a diversion.

16 Q. But if there was a diversion, that would
17 be the tendency, wouldn't it?

18 A. If there was no grain available in
19 West Saint John?

20 Q. Yes.

21 A. This might happen.

22 Q. And if that were the effect, wouldn't it
23 also deprive Canadian Pacific of the carriage of export
24 and import traffic which they would possibly enjoy from
25 Halifax and Saint John otherwise?

26 A. I would say we would still have our own
27 ships calling at West Saint John?

28 Q. But the liners that would call to pick
29 up the part cargo would not normally come to those ports;
30 isn't that correct?



1
2 A. That may be the case. This is all some-
3 thing in the future. I don't agree, of course, that
4 the grain will go away from either West Saint John or
5 Halifax.

6 Q. You know that the American railroads have
7 reduced rates on grain to meet seaway competition?

8 A. That is correct.

9 Q. Has Canadian Pacific experienced similar
10 seaway competition?

11 A. Well, there has been competition, yes,
12 but not in our estimation ---

13 Q. On the Atlantic seaboard?

14 A. --- not in our estimation necessary to
15 take drastic action such as the American railways have
16 taken. We think the seaway is in a settling down
17 period.

18 Q. A certain amount of grain is now moving
19 from the lakes to the maritimes by water; is that
20 correct?

21 A. From the head of the lakes there is a
22 certain amount of feed grain moved.

23 Q. Any export grain?

24 A. Not to my knowledge -- to the maritimes,
25 sir? There may be. They would take advantage of it
26 if they could because the water rates are lower than
27 our present "At and East" grain rates.

28 THE CHAIRMAN: What is the extent of the
29 increase on the grain rates to West Saint John?

30 MR. SINCLAIR: The present difference between



1
2 the related basis and the lack of relation that now
3 exists. What is the spread between the U.S. ---

4 THE WITNESS: Oh, 4 cents was the reduction
5 put in by the American railways.

6 MR. SINCLAIR: The spread is now 4 cents per
7 hundredweight?

8 THE WITNESS: Yes.

9 COMMISSIONER MANN: Mr. Roberts, under
10 X223 what will that spread be?

11 THE WITNESS: Four and a half cents --
12 no; three and a half cents.

13 COMMISSIONER MANN: Well, the American rates
14 are going up?

15 THE WITNESS: Seventeen and a half cents --
16 they will stay the same because our rates are going up.
17 I am sorry.

18 ---Short recess.
19
20
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2 THE CHAIRMAN: Order, please.

3 MR. SMITH: Q. Now, may I refer you, Mr.
4 Roberts, to page 27 where you are dealing with flat
5 increases in cents per unit of traffic. And at page 27,
6 as I read your precis, you state that such a method of
7 increases would be impracticable with the very wide
8 range of transportation characteristics, value and
9 length of haul, etc.

10 A. That is right.

11 Q. What I am suggesting to you, Mr. Roberts,
12 is that effective yesterday, October 24, 1960, a general
13 rate increase occurred in the United States under tariff
14 and increased rates and charges X223. You, of course,
15 are familiar with that?

16 A. Yes, sir, that is right.

17 Q. And, as you know, the tariff, among other
18 things, authorizes a general rate increase of one-half
19 a cent per 100 pounds on rates not exceeding 65¢?

20 A. That is correct.

21 Q. And 1¢ per 100 pounds on rates over 65¢?

22 A. That is right.

23 Q. Now, to assist the Commission, I wonder
24 if you could tell me whether the transportation
25 environment in Canada would make a rate increase of
26 varying amounts for different rates such as found in
27 that tariff impracticable?

28 A. Well, Mr. Smith, you have to examine the
29 amount of money that they were aiming for, and the level
30 of the increase. An increase of 1¢ per 100 pounds on



1
2 all rates over 65¢. Now, so far any increases that have
3 been authorized by the Board have been substantially
4 above that. So, I think you have to look, examine the
5 application itself and the result in comparison with
6 our own.

7 Q. But, in any event, that is what was done
8 in the United States?

9 A. That is what was done in the United States.

10 Q. And I suggest also, Mr. Roberts, that that
11 is not the first time the United States railroads have
12 made a general increase by varying flat amounts?

13 A. By varying flat amounts?

14 Q. Yes.

15 A. Only?

16 Q. I referred to -- not only, but in other
17 rate increases, the tariff increased rates and charges
18 also at varying increases in cents per hundred pounds
19 for different commodities, X212?

20 A. X212?

21 Q. Yes, X212.

22 A. Well, it had percentage increases as well
23 as that.

24 THE CHAIRMAN: Is that principle right or
25 wrong?

26 THE WITNESS: Well, sir, as I said before, in
27 my estimation it is wrong, Mr. Chairman.

28 MR. SMITH: Q. That is the view of the
29 Canadian Pacific Railway?

30 A. Yes, sir.



1
2 Q. It is wrong in the United States, and it
3 is wrong in Canada; would you say?

4 A. Well, they have to look at their own
5 situation. I am not telling them what they should do in
6 the United States. I am saying what the position is as
7 I see it in Canada.

8 Q. At least, they have done it?

9 A. They have done it under their own
10 conditions.

11 Q. Now, another topic, and I am pretty well
12 through. In discussing exhibit No. 162 with Mr. Brazier,
13 he suggested to you at page 17760 and 17761 that the
14 burden of the 17% rate increase fell more heavily on the
15 people of the various regions because one had to take
16 into consideration the number of people over which the
17 increase would be spread. Do you recall that suggestion?

18 A. I recall the questioning, yes.

19 Q. And at the pages to which I referred, he
20 gave instances of that by way of percentages?

21 A. In dollars?

22 Q. In dollars, \$5.86 for Ontario-Quebec;
23 \$15.56 for the west; and \$8.72 for competitive traffic
24 in the Maritimes. And on non-competitive, the figures
25 were: Ontario-Quebec \$2.07; the west, \$7.93; and the
26 Maritimes, \$5.15?

27 A. Those are the figures taken from the
28 transcript, yes.

29 Q. Now, I am also suggesting to you that, in
30 addition to those circumstances, it would also be



1
2 necessary to give consideration to the ability of the
3 people carrying the burden to pay do you agree with
4 that suggestion?

5 A. Well, first, of course, Mr. Smith, you have
6 to remember that the people in western Canada are spread
7 over a large territory. There are fewer of them, and
8 they are spread over a large territory.

9 Now, they pay proportionately for the
10 transportation that they receive. Certainly, the
11 concentration of population is in Ontario-Quebec, but if
12 you take it down really finer than that, you will find
13 that, say, in Toronto, in Metropolitan Toronto, there is
14 almost as many people, say, as in western Canada, or in
15 any one province of western Canada.

16 Q. I do not think so. I think your figures
17 are just a little bit off.

18 MR. SINCLAIR: More than there is in British
19 Columbia, anyhow; and more than there is in Alberta too.

20 MR. SMITH: Q. In other words, what I am
21 suggesting, Mr. Roberts, in addition to the point which
22 Mr. Frawley made, that the per capita, the personal
23 income per capita should be taken into consideration in
24 respect to territories, in measuring the burden on the
25 people in the various areas. ---

26 A. Well then, if you start doing things like
27 that, you should measure the burden on the person of the
28 particular products he is buying. Why restrict it to
29 transportation, Mr. Smith?

30 MR. SINCLAIR: I suggest, if he is going into



1
2 this, it should be "disposable income". It might be
3 so, that the Maritimes have more disposal income than
4 the people in Toronto, and not only that, in the
5 Maritimes it may be the highest of all.

6 MR. SMITH: Q. Just one other matter, Mr.
7 Roberts.

8 In discussing the application of a general
9 increase with Mr. Cooper yesterday, as found in volume
10 106, page 17697 onward, you, as I took it, disagreed
11 with Mr. Cooper's questions. At the bottom of page
12 17697, the question read:

13 "In fact, it is known before any general
14 revenue case is brought to the Board that
15 certain rates will not in fact be able to
16 take that full increase which is being asked
17 for?"

18 Can you find that question?

19 A. Yes, I have it, sir. That is not the
20 full question, of course, sir.

21 The full question was:

22 "Q. Does not that result, Mr. Roberts, in,
23 in effect, selective increases being applied,
24 in spite of the fact that we speak of general
25 percentage increases and horizontal percentage
26 increases as if that increase was to apply
27 equally throughout the whole rate structure?
28 In fact, it is known before any general
29 revenue case is brought to the Board that
30 certain rates will not in fact be able to



1
2 take that full increase which is being asked
3 for?"

4 Well, my question is this, and I just want to
5 cite an example to you. When you are preparing an
6 application for an increase, you know in advance that
7 certain competitive rates will not be increased, do you
8 not? It will not be possible to increase certain
9 competitive rates?

10 A. I would not say before we make the
11 application, Mr. Smith. We may find in the interim
12 that it will not be possible for us to put the
13 application, the increase on, as it is authorized.

14 Q. But, at least, at the time that your
15 evidence is given before the Board, you know pretty
16 well in advance; do you not?

17 A. Well, in certain instances, we did not
18 apply the increase. I think there were only two cases,
19 and they were the incentive rates between Montreal and
20 Toronto and the incentive rates out of Winnipeg.

21 Q. I see. But, at least, insofar as that
22 is concerned ---

23 A. That is about the only ones to my
24 knowledge that the 17% was not applied to.

25 Q. Are you quite sure as to that: those are
26 the only ones? The incentive rates between Montreal
27 and Toronto and out of Winnipeg?

28 A. To my knowledge, yes.

29 MR. SMITH: Thank you, Mr. Roberts.

30 THE CHAIRMAN: Mr. Mauro?



CROSS-EXAMINATION BY MR. MAURO:

Q. Mr. Roberts, you told my learned friend, Mr. Sinclair, yesterday, that this submission was written by yourself or under your direction and advice, and that it represents the best opinion that the C.P.R. can offer on the matters dealt therein?

A. At the time of writing, sir.

Q. And I take it, then, that we can start tomorrow for example, by agreeing that the present freight rate structure is completely unrealistic and that this is the opinion of the Canadian Pacific Railway?

A. The present freight rate structure is completely unrealistic? No, sir.

Q. Would you turn to page 50 of your submission, and the following appears, and I will read it:

"I am unable to understand how the Board of Transport Commissioners would ever be able to fix maximum rates which were only to be adjusted for changing costs and not to take into account changing conditions unless the maximum rates were set at such a high level that they would be completely unrealistic and would be there only to take into account all possible future variations and changed conditions. If this were done we would be back, even under Mr. Brazier's proposal, to the situation as it exists under the present freight rate structure."

A. No, sir.



1
2 Q. Now, as I read that paragraph you say
3 if the British Columbia proposal were adopted setting
4 these very high maximums it would be completely
5 unrealistic, and at best we would be back to where we
6 are today under the present freight rate structure?

7 A. No, sir, that is not the thought at all
8 because under the British Columbia proposal the non-
9 captive traffic, the rates on the non-captive traffic
10 could be higher than the maximum.

11 Q. And that is completely unrealistic?

12 A. Higher than the maximum?

13 Q. Well, unless the maximum rates were set
14 at such a high level that they would be completely
15 unrealistic; unless the maximum rates were set at such
16 a high level that they would be completely unrealistic:
17 if this were done, we would be back even under Mr.
18 Brazier's proposal to the situation as it exists under
19 the present freight rate structure?

20 A. Well, this is, Mr. Mauro, on the basis
21 that the traffic eventually -- the rates on the traffic
22 eventually would have to be moved to the level that
23 would move the traffic, and therefore reflecting value
24 of service, and we would be back to where we are today,
25 operating under the ceiling.

26 Q. But that is not unrealistic?

27 A. Well, not when you are making rates to
28 move the traffic. Not at all, sir.

29 Q. On page 50, you do not mean to infer,
30 even if in fact you did say there that the British



1
2 Columbia proposal is completely unrealistic, and even
3 with Mr. Brazier's variation we come back to the thing
4 that we had today, the same setup we have today, you
5 do not want to intimate that what we have today is
6 completely unrealistic?

7 A. No, sir.

8 Q. Now, at page 4, Mr. Roberts, part way
9 down the page, this statement appears:

10 "It must be recognized that freight rates,
11 to be just and reasonable, should not be used
12 to offset geographic advantages or
13 disadvantages of any given producer or area.

14 Nothing is clearer than that the jurisdiction
15 of the Board of Transport Commissioners is
16 not that of an economic planning board.
17 Obviously, if it was to be an economic
18 planning board, it would not only have to
19 control transportation costs, but all other
20 costs that are elements in the sale price of
21 goods."

22 I wonder, Mr. Roberts, if you could tell the
23 Commission whether or not in your experience you have
24 had representatives of governments or industry who are
25 considering the possibility of establishing an industry
26 in a particular area who had to have guarantees or
27 particular freight rate structures in order to permit
28 them to get into markets to establish the industry?

29 A. Not, Mr. Mauro, within my experience.

30 A. Do you think that it ever happened?



1
2 A. It may have happened years ago.

3 Q. How many years ago?

4 A. I think probably, Mr. Mauro, that a case
5 in point would be movement in western Canada; gypsum
6 into Fort White. The rates as I recall them remained
7 constant over the years until a case was brought before
8 this Board, the Board of Transport Commissioners.

9 Q. I want to make it clear, Mr. Roberts, that
10 where I am going is not to suggest any nefarious scheme
11 on the part of either railroads or shippers. I am
12 heading towards the goal of showing and demonstrating
13 that in fact railways and decisions of railways, the
14 decision of the Board of Transport Commissioners, have
15 very direct economic impact on the development of
16 geographic areas of this country, and I am suggesting
17 that you are contacted frequently by governments and/or
18 industries who are contemplating the establishment of
19 various plants or operations and need a particular rate
20 in working out their cost structure to see if the
21 operation is feasible?

22 A. Well, of course, we would naturally
23 examine the circumstances, Mr. Mauro, in relation to
24 the particular industry, and what the effects might be
25 on the existing freight rate structure.

26 Q. And I think the matter was discussed by
27 Mr. Jefferson, who I understand was a former officer
28 of the Canadian Pacific Railways?

29 A. A very distinguished officer.
30



1
2 Q. He certainly was, Mr. Roberts. I might
3 refer you to the examination of Mr. Jefferson as it
4 appears in Volume 80 of the evidence before the
5 Royal Commission on Transportation on February 21, 1950.
6 This is a discussion with my learned friend Mr. Frawley,
7 who is discussing the pulp and paper manufactures in
8 western Canada, the possibility of setting up those
9 plants. I will just refer you to it on page 15926:

10 "Mr. Frawley: Q. Tell me, Mr. Jefferson,
11 have you any examples of such rates within
12 western Canada, that is, rates given to particular
13 shipping points to the exclusion of other similar
14 shipping points for the express purpose of
15 assisting industry at the former point?

16 "A. No. If you have any examples I would
17 be glad to discuss them with you, but I have
18 not any.

19 "Q. No, I have not any, but I was wondering
20 whether you had any examples of rates given to
21 particular shipping points for the express purpose
22 of assisting an industry at that point to the
23 exclusion of other similar shipping points?

24 "A. No doubt we have rates in effect to
25 assist industry, but I cannot pick any out at
26 the moment. You would have to be very careful
27 in naming a rate to assist an industry if another
28 industry was producing the same product.

29 "Q. That really means then that rate making
30 to meet the special needs of the shippers would



1
2 have to have in mind all shippers of a par-
3 ticular commodity as a whole? Is that not
4 so?

5 "A. Would you ask that again?

6 "Q. I say rate making, to meet the special
7 needs of the shippers, would have to refer to
8 all shippers of a particular commodity as a
9 whole?

10 "A. Yes, sir. I say that we would treat
11 all shippers alike unless there were some special
12 competitive reasons requiring different treatment
13 of one than the other."

14 I just say that it points up in fact the importance of
15 transportation in the economic development in the
16 interest of having industries in Canada?

17 A. There is no doubt about it that trans-
18 portation is important and as you will notice Mr.
19 Jefferson said in evaluating the particular problems
20 he examined the situation in respect of other people
21 in similar circumstances.

22 Q. And when the sulphur people in Saskatche-
23 wan were going to set up their plant, did they talk to
24 you?

25 A. They certainly did.

26 Q. And I imagine that the decisions reached
27 with the C.P.R. were important factors in the establish-
28 ment of that plant and the operation in Saskatchewan?

29 A. They had to find out as best they could
30 what their transportation costs would be in getting the



1
2 commodity to market.

3 Q. So you are not seriously stating in
4 this submission that the decision of the Board of
5 Transport Commissioners as to rates or of the railways
6 as to rates do not affect the economic fibre of every
7 community in Canada?

8 A. Well, when you say "decision", you
9 cannot say it in a general way. You have to look at
10 these things specifically.

11 Q. Well, I will say it very generally on
12 the overall picture, Mr. Roberts, that the decision
13 does in fact, because the decisions of the Board of
14 Transport Commissioners and of the railways on the
15 freight rate matters have such an impact on the
16 economic life of our economy, that this Royal Commis-
17 sion was established?

18 A. Well, Mr. Mauro, there are factors
19 other than transportation that are taken into account
20 when any industry is set up. I mean, this is one
21 factor and one cannot say that it is not an important
22 factor.

23 Q. Well, in the context of this Commis-
24 sion's interest in transportation the transportation
25 role in the economic life of Canada is, I suggest, a
26 matter that we want to consider?

27 A. That is right.

28 Q. Now, at page 6, as a matter of fact,
29 starting at the bottom of page 5, you say:

30 "The distance over which goods are carried



1
2 has a direct bearing on the rate which
3 can and must be charged for the service.
4 The length of the haul obviously has a
5 direct effect on the variable cost of the
6 service performed. It also has an effect
7 on the ability of most goods to pay trans-
8 portation charges."

9 Now, can you explain to me how the length of haul can
10 affect the ability of goods to pay transportation charges?

11 A. Well, the length of haul, of course, has
12 an effect on the price you charge for the movement of
13 the product, and, therefore, it could limit the range of
14 movement of any particular product.

15 Q. Well, the value of the commodity does not
16 change by moving it a given set of miles. In other
17 words, -- I think perhaps we may have been over this
18 once before but I will repeat it here -- I suggest that
19 the price of a washing machine in Ontario at the factory
20 has a set value and that the value to the consumer in
21 Winnipeg, the purchaser of that washing machine in
22 Winnipeg is not the price of the washing machine de
23 facto but the price he could buy it at in Winnipeg and
24 the value of the washing machine does not change because
25 of the distance from Toronto to Winnipeg?

26 A. Well, it changes in respect of the service
27 that is necessary to get it to market because the
28 washing machine is not of any value in Toronto when they
29 have a market in Winnipeg.

30 Q. No, it certainly is not. How does the



1
2 washing machine then go if the party wishes to go
3 to Toronto and pick up the washing machine, has it
4 any different value when he gets it back to Winnipeg?
5 The washing machine has a set value, has it not?

6 A. Yes.

7 Q. And the only increase will be the in-
8 crease that you people set on moving that commodity?

9 A. Oh, no, there is the cost of the person
10 who is going to sell the washing machine in Winnipeg,
11 that will be in there and that is not transportation.

12 Q. Yes, has the value of the washing machine
13 changed?

14 A. No, the value of the washing machine
15 basically has not changed.

16 Q. So that length of haul cannot affect
17 the ability of a certain product to pay transportation
18 costs?

19 A. I say yes, because the distance, the
20 service that has been performed, has an effect on the
21 price that is paid for that service.

22 Q. Mr. Cooper yesterday asked you about
23 domestic market competition and you stated, if I
24 understood correctly, that you did not meet the domestic
25 market competition, internal market competition?

26 A. This is as between two Canadian manu-
27 facturers?

28 Q. Yes. Does that apply to a product
29 competition situation where you have suppliers of
30 red cedar shingles in British Columbia competing with



1
2 asphalt shingles into the Ontario market, both produced
3 in Canada?

4 A. No, sir, we have a normal basis of rates
5 applicable to each different type of commodity.

6 Q. I notice on page 7 the statement in the
7 last paragraph, concerning general principles involving
8 increases you make the statement:

9 "It must not attempt to maintain rate
10 differences unrelated to the competitive
11 rate relationship."

12 That is, in fact, what is presently done on coal, is it
13 not, in the case of coal?

14 A. That is correct, sir.

15 Q. As I recall it yesterday you did suggest,
16 to be consistent, coal should be put on a horizontal
17 percentage basis?

18 A. Yes.

19 Q. Then, on page 30, on the matter of coal,
20 the second complete paragraph:

21 "Even assuming no other difficulties ---"
22 You are discussing here, I believe, the flat increase:

23 "Even assuming no other difficulties
24 the cost of maintaining the statistics
25 necessary and in republishing all tariffs
26 after every general revenue case destroys
27 the validity of this method."

28 I wonder if you could tell us whether or not you re-
29 publish the coal tariff after every flat increase?

30 A. No, we do not, but, of course, here I



1
2 am discussing a graduation of the flat increase where
3 you would have to examine movements, various movements,
4 various lengths of haul and so on and so forth.

5 Q. Well, coal has a graduated ---

6 A. Well, it had, Mr. Mauro, in two cases
7 but all of them have just been -- other than this, it
8 has been flat increases.

9 Q. And were the tariffs republished in those
10 two cases?

11 A. They were eventually published, not
12 immediately.

13 Q. Now, has anyone before this Commission
14 suggested that the future increases be made in flat cents
15 per hundred pounds?

16 A. I believe it has been mentioned by the
17 Brandon Chamber of Commerce.

18 Q. Do you have the transcript there?

19 A. Volume 31, page 4798.

20 MR. SINCLAIR: I am suggesting now they have
21 opened this possibly Mr. Roberts might want to put them
22 all on with respect to page 14.

23 MR. MAURO: Q. Put on whatever you want.

24 A. It is volume 31, page 4883.

25 Q. At page 18, Mr. Roberts, the last para-
26 graph on the page:

27 "It will be seen from the foregoing com-
28 parisons that the percentage of increase
29 paid by the various regions on the average
30 was approximately the same."



1
2 Now, as I understand most of the evidence before this
3 Commission, no one has seriously denied that using
4 the increase in percent is approximately the same.
5 What parties opposing your position have contended is
6 that this method has distorted the situation in absolute
7 terms of dollars and cents.

8 A. There has been a change in the difference
9 in the rates certainly, but proportionately the relation-
10 ship has remained the same.

11 Q. Well, that is certainly true, but the
12 inequity that the parties, the long haul provinces
13 particularly, have complained about before this Royal
14 Commission, before the Turgeson Royal Commission and
15 before the Board of Transport Commissioners has been
16 the fact that the percentage increase was not the
17 same but that the results of continual horizontal
18 percentage increase distorted the freight rate structure
19 in absolute terms. You will recall that Premier
20 Roblin in Winnipeg placed before the Commission certain
21 data appearing in Volume 29 at the hearing of February
22 8th, at page 4212, where he pointed out -- and I will
23 only mention one or two of them -- that for instance
24 in the case of auto parts the east-west rate in 1941
25 was \$40.79, and by 1958 it had risen to \$87.49, or
26 a total increase in dollars of \$46.70. The east-
27 east rate had gone up from \$10.44 in 1949 to \$11.44
28 in 1958, or an increase of \$1. Agricultural imple-
29 ments had risen from the east to west trade from
30 \$30.80 in 1949 to \$62.65 in 1958, or an increase of



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2 \$32.57. The east to east rate had gone up from \$9.33
3 to \$16.43 for a total of \$7.10. As far as the
4 province of Manitoba is concerned you have no doubt
5 that we are not complaining about the incidence of the
6 percentage increases, we are not concerned with whether
7 or not the percentage increase is the same in various
8 regions of Canada, but we are strongly contending
9 what we allege to be the inequity resulting from the
10 percentage increase and what it does in absolute terms.

11 A. Of course, these rates which you quote,
12 in the first place they could be competitive rates in
13 eastern Canada but also I think you must look at this
14 that from this study -- rather, I should say first
15 that from the reaction to increase you would think all
16 the money obtained from an increase was got in western
17 Canada, and I think this study shows that is not so.
18 The revenue derived from the increase as applied in
19 terms of percentage in relation to the whole, the
20 revenue derived from the increase within Ontario-
21 Quebec was 36½ per cent and the west was 36 per cent.
22 Actually the money involved was just about the same.

23 THE CHAIRMAN: Mr. Roberts, to what extent
24 does the taper prevent distortion?

25 THE WITNESS: I am sorry, sir, to what
26 extent does the taper prevent ---

27 THE CHAIRMAN: Distortion?

28 THE WITNESS: Well, it retains the application
29 of the general percentage increase, it retains the taper
30 in the relative place in the rate structure, so I do not



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2 think there is any distortion. The taper is based to
3 a scale and the application of the increase maintains that
4 relationship, in my estimation, in the scale.

5 THE CHAIRMAN: You maintain it is corrective?

6 THE WITNESS: The taper?

7 THE CHAIRMAN: Yes, on the long haul.

8 THE WITNESS: On the long haul it is a method
9 of reflecting internal costs at origin and destination
10 in the rate structure on long hauls.

11 MR. MAURO: Q. You have mentioned Exhibit
12 162 as one of the illustrations of the fact that there
13 is not any real distortion or inequity vis-a-vis
14 eastern and western Canada?

15 A. I would say that is right, sir.
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2 Q. We perused exhibit No. 162 and I am
3 going to give you some of our conclusions on the basis
4 of that exhibit, and I suspect you may want to look
5 them over and I would like your opinion.

6 We take out of that exhibit that traffic
7 terminating in western region has borne 52.8% of the
8 additional revenue, and that is made up of line 33:
9 Maritimes to west, .5; line 36, Ontario-Quebec to west,
10 16.3%; line 37, west within west, 36%; total 52.8%.
11 At the same time that the traffic terminating in
12 western region was bearing 52.8% of the additional
13 revenue requirements, traffic terminating in western
14 region represented only 25% of the total tonnage
15 within Canada, and this includes grain moving at
16 statutory rates which is unloaded at Vancouver and
17 Churchill. The source of those statistics, which you
18 may want to check, is exhibit 154, page 2. That is
19 the first comment on exhibit 162.

20 Now, you have mentioned ---

21 MR. SINCLAIR: I presume you want Mr.
22 Roberts to look at these over the luncheon adjournment?

23 MR. MAURO: Oh yes, I will put them all
24 before him because they are comments on exhibit 162.

25 Q. The traffic at normal rates -- since
26 you mentioned that those figures of Premier Roblin may
27 have been dealing with matters that were competitive
28 down east, and trying to compare them with unlike
29 movements in western Canada -- traffic at normal rates
30 within the Maritimes: the average rate, cents per 100



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2 pounds, 14¢; the percentage increase, 10.7%, which is
3 line 1 in the second last column, or, an average increase
4 of cents per 100 pounds within the Maritimes of 1.6¢.

5 Maritimes to Ontario and Quebec, average rate
6 45¢ per 100 pounds; the percentage increase as per your
7 exhibit is 15.3%; average increase in cents per 100
8 pounds, 6.9.

9 Maritimes to West, average rate, \$3.00 per 100
10 pounds; increase 17%; average increase in cents, 51¢ per
11 100 pounds.

12 Within Ontario and Quebec, average weight 17;
13 percentage increase, 14½; average increase in cents per
14 100 pounds, 2.5.

15 Ontario-Quebec to the Maritimes, average rate
16 84; percentage increase 17%; average increase in cents,
17 14.3.

18 Ontario-Quebec to the West, average rate \$2.61;
19 percentage increase, 16.4; average increase in cents per
20 100 pounds, 42.8.

21 Within the West, the average rate, 28; the
22 increase 15%; the average increase in cents, 4.2.

23 The West to Ontario and Quebec, average rate,
24 163; percentage increase, 16.8%; average increase in
25 cents per 100 pounds, 27.4.

26 These are based on the waybill analysis of
27 1959, and in case you missed some of those I will have
28 them written out for you.

29 The point of interest from our stand in this
30 matter, Mr. Roberts, is that the Maritimes to West



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2 increase is 51¢ per 100 pounds, while within the
3 Maritimes it is 1.6¢, and Maritimes to Ontario and
4 Quebec 7¢; and, similarly, from Ontario-Quebec our
5 average increase is 42.8¢, and the next one was 14¢
6 and the lowest 2.5. That is our normal traffic.

7 So that we have the complete picture we also
8 have prepared similar averages from your statistics
9 in exhibit 162 on competitive rates which is that
10 second group in exhibit 162, "traffic at competitive
11 rates", and we find that within the Maritimes the
12 average rate is 17¢ per 100 pounds; the percentage
13 increase was 5½%; the average increase in cents, .9¢
14 per 100 pounds.

15 Maritimes to Quebec and Ontario, average
16 rate, 61; percentage increase 7.9; average increase in
17 cents per 100 pounds; 4.8.

18 Maritimes to West, we could find no record
19 in the waybill analysis, and we can make no comparison.

20 MR. SINCLAIR: 1959?

21 MR. MAURO: Yes, 1959; nor in 1958 could we
22 find any competitive traffic from Maritimes to West.

23 Within Ontario-Quebec, average rate is 25;
24 percentage increase, 12.6; average increase 3.2¢.

25 Ontario-Quebec to the Maritimes, average
26 rate \$1.08; percentage increase 4.4; average increase
27 in cents 4.8.

28 Ontario-Quebec to the West, average rate
29 \$3.88; percentage increase 7%; average increase in
30 cents 27.2.



1
2 Within the West, average rate 43;
3 percentage increase 12.3; average increase in cents
4 5.3.

5 West to Quebec and Ontario, average rate
6 \$1.97; percentage increase .4; average increase in
7 cents, .8.

8 West to Maritimes, average rate \$2.38; the
9 increase, .6; the average increase, 1.4¢.

10 THE CHAIRMAN: You can hand these to Mr.
11 Roberts and he can comment on them later.

12 COMMISSIONER GOBEIL: What was the average
13 increase in the West?

14 MR. MAURO: On competitive?

15 COMMISSIONER GOBEIL: Yes.

16 MR. MAURO: 5.3 per 100 pounds.

17 Q. We will discuss that after lunch, Mr.
18 Roberts, and perhaps I can conclude one aspect of this
19 discussion. The C.P.R. has opposed for a considerable
20 period of time any variation in the present method of
21 apportioning freight rate increases by a horizontal
22 percentage method? The C.P.R. has opposed any change
23 in the present method?

24 A. We feel the horizontal percentage
25 increase method is the most equitable method.

26 Q. But there are a great many people who
27 feel otherwise, are they Not?

28 A. Well, certainly, there are people all
29 over the country that don't like the way other people
30 do things. They do not like taxes, for example, but



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2 this is the method, in our estimation, that is the
3 most equitable for all concerned.

4 Q. Did the C.P.R. to your knowledge appear
5 before the Duncan Commission in 1926 where this method
6 was discussed?

7 A. Not to my knowledge.

8 Q. Did you know the Duncan Commission in
9 1926 considered horizontal percentage increases and
10 found that they were inequitable? Did you know that?

11 A. No sir, I did not know that.

12 Q. Did you know that the Turgeon
13 Commission considered the matter in 1950 -- you knew
14 that?

15 A. Yes, I knew that.

16 Q. And you also knew what conclusions the
17 Turgeon Commission came to after giving very full
18 consideration to it?

19 A. That is correct, and I know also the
20 results of endeavouring to satisfy these conclusions
21 by the application of percentage increases with hold-
22 downs.

23 A. Do you agree with the conclusion of
24 the Turgeon Commission report appearing on page 61
25 where they state:

26 "Applications for uniform horizontal
27 increases to all freight tolls assume that
28 all freight can, under all conditions, bear
29 an equal burden of increase. This is an
30 incorrect assumption."



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2 Do you as an experienced traffic man agree
3 or disagree with the findings of the Turgeon Commission?

4 A. I feel that the general percentage
5 increase applied on all traffic, and where necessary
6 adjustments made later, is the most equitable way of
7 obtaining the money required under a general increase.

8 Q. But do you agree or disagree with the
9 conclusion of the Turgeon Commission that "Applications
10 for uniform horizontal increases to all freight tolls
11 assume that all freight can, under all conditions, bear
12 an equal burden of increase. This is an incorrect
13 assumption."? Do you agree or disagree with that
14 conclusion?

15 A. I agree that they can bear an equal
16 burden.

17 Q. You disagree with that conclusion?

18 A. I disagree with this.

19 Q. And do you agree or disagree with the
20 conclusion No. 2:

21 "Horizontal increases, although preserving
22 rate relationships percentage-wise, disturb
23 them in cents per 100 pounds (or other units)
24 insofar as shipments and consignees are
25 concerned, and this is of much importance to
26 them."?

27 Do you agree or disagree with that conclusion?

28 A. I agree that there is a disturbance in
29 the actual difference in cents between different rates.

30 Q. Do you agree or disagree that this is of



1
2 much importance to shippers and consignees?

3 A. Well, in their estimation it may be,
4 but in our estimation we at least retain their relative
5 position with other people.

6 Q. Oh yes, but I would like your opinion
7 vis-a-vis the conclusion of the Turgeon Commission: do
8 you agree with the finding of the Turgeon Commission
9 that this is of much importance to consignees and
10 shippers?

11 A. Well, any increase is of much importance.

12 Q. And conclusion No. 3:

13 "Horizontal increases aggravate the
14 disadvantage already suffered by long haul
15 shippers and consignees"

16 Do you agree or disagree with that finding?

17 A. Well, I disagree with that because the
18 traffic is moving long hauls.

19 Q. Do you agree or disagree with their
20 fourth finding:

21 "The remedy does not lie in the prohibition,
22 statutory or other, of horizontal increases,
23 but is in the hands of the railways themselves.
24 The railways should make studies of traffic
25 conditions in all their bearings and should
26 present to the Board, (in accordance with
27 the foregoing precedents) proposals showing
28 not only their maximum percentage increase
29 requirement, but also, among other particulars,
30 varying percentage increases on different



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2 commodities, flat, instead of percentage
3 increases when these are more suitable, and
4 maxima in appropriate cases in cents per 100
5 pounds or other unit. Special attention should
6 be given to long haul traffic and to rates on
7 basic (or primary) commodities. The railways
8 should be in a position to do this especially
9 in the light of new statistical procedures.
10 But if the railways do not approach the task
11 in this way, it ought to be the duty of the
12 Board to see that they do so. Presumably
13 an examination of the 'Waybill Study' undertaken
14 by the Board will help to provide it with the
15 requisite 'reliable traffic statistics' which
16 it stated were lacking in the 30% application."
17 Do you agree with that conclusion of the
18 Turgeon Commission?

19 A. Well, the railways accepted that
20 conclusion in the next case, while not advocating that
21 method, in order to carry out the direction that
22 was contained here -- or, in endeavouring to carry it
23 out -- and they filed the increase subject to certain
24 hold-downs.

25 THE CHAIRMAN: Offering an alternative.

26 --- Luncheon adjournment ---
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2 --- On resuming at 2 p.m.

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4 THE CHAIRMAN: Order, please. Mr. Mauro?

5 MR. MAURO: Q. Mr. Roberts, did you want to
6 make any particular comments or corrections on the
7 figures that I put in the record?

8 A. Well, your question to me was to comment
9 on the --

10 Q. No, I drew attention to the various
11 average increases in cents per 100 pounds on those
12 commodities, and I do not imagine there is too much
13 comment necessary if the figures are essentially correct.
14 But, if you would like to make some comments ---

15 A. They are essentially correct here, as far
16 as they go. I think they should be taken a little
17 further, Mr. Mauro, and they should be examined in relation
18 to the work done.

19 Now, if you take the revenue accruing for
20 movements within Western Canada, and also on traffic
21 originating in Ontario and Quebec destined to the West,
22 add that together, along with the ton-miles on both of
23 those movements, and then examine the same figures in
24 relation to revenue -- that is to say, within Ontario
25 and Quebec, and, from the West, Ontario and Quebec
26 in relation to the ton-miles of service performed, you
27 will find, Mr. Mauro, that the service performed; that
28 is to say, the number of ton-miles of service performed
29 in connection with both of those movements, that the
30 revenue received for that service was the same.



1
2 In other words, the ratio is that insofar as
3 traffic within the West and from Ontario and Quebec to
4 the West is concerned, the ratio of revenue to ton-miles
5 of service performed is \$1.00 for every 51 ton-miles of
6 service. And if you take the same figures within Ontario
7 and Quebec, plus the West to Ontario and Quebec, the
8 ratio of revenue, \$1.00 of revenue, to service performed
9 is 50 ton-miles. So that, comparatively speaking, for
10 service performed in each segments of traffic, we
11 received -- the railways received the same amount of
12 revenue.

13 THE CHAIRMAN: It all turns on service
14 performed?

15 THE WITNESS: That is right, sir.

16 THE CHAIRMAN: Accordingly.

17 THE WITNESS: That is right.

18 MR. MAURO: Q. We were discussing it in the
19 context of burden; actual dollars paid by various regions
20 of the country. You gave us your approach to it. The
21 figures are otherwise essentially correct?

22 A. I accept your figures here, and my figures
23 are in the record now, which represents the work we
24 performed.

25 THE CHAIRMAN: It is a matter for argument.

26 MR. MAURO: Q. Just so that we clear up this
27 morning's discussion, in reply to a question of mine of
28 who recommended or proposed a flat cents per 100 pounds
29 increase, you advised me it was the Brandon Chamber of
30 Commerce, and I was wondering, Mr. Roberts, if you would



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2 put on the record your quotation on the matter?

3 A. In respect of the ---

4 Q. The cents per 100 pound type of increase.

5 A. The reference for that was volume 31, page
6 4883. This is what you had reference to?

7 Q. Yes?

8 A. "MR. BERGMAN: The city of Brandon and the
9 Brandon Chamber of Commerce therefore
10 respectfully submit that any further increase
11 that may be imposed should be a flat amount in
12 cents per hundred pounds, or failing this, a
13 combination of a relatively smaller percentage
14 increase plus a cents per hundred pounds
15 increase."

16 Q. Just in that context, I think in fairness
17 to Mr. Bergman, I should refer you to page 4918 in the
18 cross-examination by Mr. Sinclair where this appears:

19 "Q. If you were shifting short haul, if you
20 were an Estavan shipper shipping to Brandon
21 and competing with a Drumheller shipper shipping
22 to Brandon, then the situation would be one in
23 which percentage increases would be the method
24 you would expect them to support, wouldn't it?

25 A. Well, the approach we are trying to make
26 because we are new in this business is the fact
27 we want to suggest something that cannot be
28 interpreted as being greedy for us, but
29 something that would improve the situation to
30 the benefit of everybody. We feel there is



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going to be some disadvantage, and I can only
speak of a principle.

Q. There is going to be some disadvantage,
and with the information you have you feel
that the 50-50 suggestion of the Premier of
Manitoba seems to assist Brandon?

A. I am fairly convinced that is the most
acceptable solution available yet."



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THE CHAIRMAN: That was about 11 o'clock at night.

MR. MAURO: Yes. He mentioned a little earlier, "I don't know whether it is too late for me, but I just didn't get that."
I think it was a little late for all of us, Mr. Chairman. It was about 11:30.

Q. Mr. Roberts, before luncheon adjournment, we were discussing this matter of horizontal percentage increases, and the position of the Canadian Pacific Railway that it was by far the most equitable and efficient manner of putting on general freight increases, and I touched on the report of the Duncan Commission in 1926, who reported against this type of freight rate increase, and subsequently in 1949-51 the Turgeon Commission's position on this matter.

And we are, now, in 1959-60 discussing the same problem. I wonder in this context of who is supporting and who is opposed to this method of freight increases during this Royal Commission, did anyone in the Maritime region support horizontal percentage increases as a method of increasing freight rates?

MR. SINCLAIR: I object to this, Mr. Chairman. I do not think he should analyze the whole record. I would think the people in the Maritimes in favour of horizontal percentage increases will have relied upon myself and Mr. McDonald. Or, if Mr. McDonald does not want to associate himself with me on that, they could have relied upon myself.

THE CHAIRMAN: I think the records speaks for



1
2 itself.

3 MR. MAURO Q. It is important in this way.
4 We have the C.P.R. adopting the position that it is the
5 best method. Do you from your own personal knowledge or
6 from what you have been told, Mr. Roberts, know of any-
7 one in the Maritime Provinces, shippers or consignees
8 who have supported the horizontal percentage increases?

9 A. No, sir.

10 Q. In the Province of Quebec?

11 A. Quebec has not made a submission.

12 Q. There was a submission. But, you do not
13 know of any?

14 A. No.

15 Q. How about Province of Ontario?

16 A. No, sir.

17 Q. Manitoba?

18 A. No, sir.

19 Q. Saskatchewan?

20 A. Saskatchewan, as I recall it, sir, said
21 that while increases, as we both agree, because of
22 changing conditions are necessary, they felt that so
23 far as they were concerned they could not think of any
24 other more equitable way of obtaining the additional
25 money necessary.

26 Q. Your understanding of Saskatchewan's
27 position is that Saskatchewan is supporting the present
28 method because they do not have any better alternative?

29 A. Yes, that is right.

30 Q. How about the Province of Alberta?



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2

A. No, sir.

3

Q. How about British Columbia?

4

A. No, sir, not to my knowledge.

5

Q. We might have some opinions on that, and

6

we will let Mr. Carter discuss that with you as to

7

Saskatchewan. But, leaving out Saskatchewan, the Canadian

8

Pacific Railways to date is the only party who has, to

9

your knowledge, come before this Commission and supported

10

the continuation of horizontal percentage increases?

11

A. Well, sir, it is not quite right to say

12

that we are the only ones that have supported it, in this

13

way: that we have to the best of our ability analysed

14

various methods, and from the result of that analysis, we

15

have reached the conclusion that the horizontal percentage

16

increase method is the most equitable way of doing it.

17

Q. But in the grouping of references that I

18

have made, the Duncan Commission, the Turgeon Commission,

19

and, now, before this Commission, the Maritimes, Quebec,

20

Ontario, Manitoba, Alberta and British Columbia -- in all

21

those representations to this Commission and past

22

Commissions, the C.P.R. is the only one, to your

23

knowledge?

24

MR. SINCLAIR: Well, Mr. Chairman, of course,

25

I think my friend would want to be fair and say that not-

26

withstanding the representations that have gone down

27

through these years by these people, the tribunal that is

28

responsible, the Board of Transport Commissioners, have

29

supported it after full opportunities and have implemented

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it. Now, I think that is maybe the best support that



1
2 Canadian Pacific needs.

3 MR. MAURO: I do not want to restrict my
4 learned friend either in re-examination or argument,
5 but I do not think I am being unfair.

6 Q. -- Mr. Roberts, if there is anything you
7 want to add or anything you want to talk over with your
8 counsel, in case you want to add anything, I will give
9 you the opportunity to do it.

10 We will go back to the evidence presented to
11 this Commission. The C.P.R., to your knowledge, is
12 the only one supporting the continuation?

13 A. In the representations made to this
14 Commission, yes.

15 Q. Then that is why, at page 16 of your brief,
16 Mr. Roberts, when you are discussing this matter of
17 horizontal percentage increases, even in the light of
18 what the Duncan Commission, the Turgeon Commission, and
19 all the provinces of Canada have said on this matter,
20 at the same time this statement appears:

21 "These statements are obviously made with a lack of
22 understanding of the freight rate structure,
23 because, as I have said already, distance is
24 a factor in rate making".

25 The C.P.R. feels that there is this lack of
26 understanding?

27 A. Well, our position is that you must take
28 the distance factors and the work performed into
29 consideration.

30 Q. Now, I want -- you would not for a minute



1
2 doubt that the Duncan Commission and the Turgeon
3 Commission ten years ago took into consideration all of
4 the facts that the able counsel of the Canadian Pacific
5 Railway and the excellent witnesses that the Canadian
6 Pacific Railway would call to place before it -- but,
7 just dealing with this Royal Commission, Mr. Roberts,
8 and with the Province of Manitoba, are you suggesting that
9 the Province of Manitoba's advisers have a lack of
10 understanding of the freight rate structure?

11 A. Well, they do not have the day to day
12 dealings with the freight rate structure that the
13 railway officers have themselves.

14 Q. Do you seriously place before this
15 Commission, Mr. Roberts, the statement that the advisers
16 and counsellors of the Province of Manitoba in presenting
17 this evidence of horizontal increases lack understanding
18 of the freight rate structure?

19 A. They understand the freight rate structure,
20 but not the workings of the freight rate structure, sir,
21 because they are not dealing with the problems involved
22 in the freight rate structure from day to day.

23 Q. And what about the Maritime Transportation
24 Commission? Do you think that they lack an understanding
25 of the freight rate structure?

26 A. Well, they understand the freight rate
27 structure insofar as the Maritimes are concerned, but
28 we are looking at the freight rate structure as a whole,
29 sir.

30 Q. Now, the balance of that statement is:



1
2 "...as I have said already, distance is a
3 factor in rate making".

4 Do you for one moment think, or are you
5 seriously telling this Commission that the advisers of
6 the Province of Manitoba are unaware that distance is
7 a factor in rate making?

8 A. They are aware of that fact, that distance
9 is a factor in rate making.

10 Q. Certainly, certainly they are aware of
11 that fact, Mr. Roberts.

12 And, then, Mr. Roberts, could you point out
13 anywhere in the recommendation of the Province of
14 Manitoba where the distance factor in rate making is
15 either denied or ignored?

16 MR. SINCLAIR: Well, again, Mr. Chairman, I
17 would say that that is surely a matter for counsel to
18 deal with. If he is going to analyse the record of
19 Manitoba; if my friend wants a reference, I think I
20 could turn one up for him.

21 MR. MAURO: Maybe my learned friend can, and
22 that would be of assistance, but does the witness know?

23 MR. SINCLAIR: He is not dealing with the
24 whole record. That is my responsibility.

25 MR. MAURO: Q. The recommendation of the
26 Province of Manitoba is before the witness and perhaps
27 Mr. Edsforth will deal with it. And, if that is the
28 case, Mr. Roberts, we know each other well enough that
29 is all you have to tell me. But, I am asking you in
30 your perusal of the Manitoba recommendations, is there



1
2 anything that led you to believe that the distance
3 factor in rate making was being denied or ignored?

4 A. Well, as you say, Mr. Edsforth will deal
5 with the brief of Manitoba as it was presented, but at
6 the same time, Mr. Mauro, insofar as the set figure of
7 so many cents per 100 pounds is a part of the Manitoba
8 submission, well then, I say that distance is ignored
9 to that extent.

10 Q. Even if the degree of the reflection of
11 cents per 100 pounds is purely reflecting terminal costs?

12 A. Well then, if you are going to talk about
13 terminal costs, Mr. Mauro, you must -- and, particularly
14 with traffic, the long haul traffic, as you designate it,
15 moving to Western Canada -- well, there is more than the
16 origin terminal and the destination terminal involved.
17 There are a number of terminals, and these factors
18 certainly enter into consideration.

19 Q. They will, then. You could, if you can
20 once segregate or accurately estimate terminal cost as
21 opposed to line haul cost. The fact that you put on a
22 flat cents per 100 pounds, Mr. Roberts, to reflect its
23 terminal cost is not denying the distance factor in
24 rate making?

25 A. Well, Mr. Mauro, I think the farther you
26 go in distance on the railway, including these terminals
27 on the way, it is my submission that the percentage
28 increase in total would more properly reflect the
29 service performed.

30 Q. And Mr. Edsforth, as I understand, is



1
2 going to deal more specifically with the Manitoba
3 proposal?

4 MR. SINCLAIR: Just a minute. What Mr.
5 Edsforth is going to do is what I am ask him to do, and
6 I do not know whether he is going to deal with that or
7 not, or whether it will be dealt with in argument. I
8 think we have to wait on this basis and see what Mr.
9 Edsforth says, if my friend does not mind.

10 MR. MAURO: Q. Now, Mr. Roberts, if you will
11 turn to page 33 of your paper, the last paragraph on
12 that page:

13 "Basically the 50/50 increase method requires
14 considerable statistical information which is
15 not readily available and would be expensive
16 to compile. It does not give due weight to
17 traffic characteristics, value and length of
18 haul."

19 I wonder whether you could say or enumerate
20 briefly the major traffic characteristics that a rate
21 must reflect?

22 A. Well, it does not differentiate --

23 Q. Just give me the traffic characteristics.

24 A. The type of traffic itself; that is to
25 say, the sand and gravel versus apples or versus
26 refrigerators.

27 Q. And you say the present horizontal
28 method does reflect these traffic characteristics?

29 A. It certainly does, sir.

30 Q. Could you tell me in what way the Manitoba



1
2 formula would fail to give similar weight to these
3 traffic characteristics?

4 A. By reason of the flat increase, which is
5 a portion of the submission.

6 Q. Have you made a study of the Manitoba
7 submission, Mr. Roberts; the submission that we presented
8 here with the modifications?

9 A. Have I made a study of it, sir?

10 Q. Yes?

11 A. I have not made a study of this, no.

12 Q. But you are suggesting that the horizontal
13 percentage method does reflect these traffic characteristics?

14 A. It does. Of course it does, because it
15 is applied to the rate that is moving the traffic
16 proportionately.

17 Q. If we could go forward and demonstrate
18 to this Commission that the Manitoba formula reflects
19 in similar degree the major traffic characteristics that
20 the horizontal percentage method, apparently so far as
21 you are concerned, does reflect them, you would be
22 satisfied?

23 A. If it reflects the traffic characteristics.

24 Q. If it reflects the traffic characteristics.

25 Your next item is value. How does the
26 implementation of the Manitoba formula deny the
27 importance of value in imposing future increases?

28 A. In the same respect, Mr. Mauro, that it
29 does not give any weight to whether you are moving
30 sand or gravel or refrigerators.



1
2 Q. Again, you can say that with what you
3 know of the Manitoba proposal, but you have not studied
4 it?

5 A. That is right.

6 THE CHAIRMAN: You know the formula?

7 MR. SINCLAIR: I think the position is that
8 Mr. Roberts' evidence is addressed solely to the
9 proposal as it was advanced by Premier Roblin and does
10 not take into account the modifications and the change
11 in it that was brought out in the evidence that was put
12 in here, because Mr. Premier Roblin put it on a 50-50
13 basis and that is not necessarily the basis it is on
14 now.



1
2 MR. MAURO: Q. And then your third factor,
3 Mr. Roberts, is length of haul, and again my question is,
4 in what way does the Manitoba formula deny the true
5 importance of length of haul in regulating future rate
6 increases?

7 A. Again I say because of the flat cents per
8 hundred pounds portion of the submission.

9 Q. On page 34 we are still talking about the
10 50/50 method and you say that it places a greater
11 proportion of burden on the short haul traffic and on
12 low rated traffic. Once more I would like to know in
13 what way the Manitoba proposal could place a dispro-
14 portionate portion of short haul since it is reflected
15 in terminal and line haul costs?

16 A. Certainly it would impede the movement of
17 the traffic by applying to a rate of 15 cents per hundred
18 pounds an increase of, say, five cents a hundred pounds
19 and .5 per cent.

20 Q. Well, we were rather taken with the
21 interest of this Commission, and certainly the railways,
22 in wanting something more than a theory and seeing the
23 specifics of our proposal and -- we thought we could
24 in preparing an exhibit, which is No. 153D. This I
25 am advised represents approximately three-quarters of
26 the total traffic set out in the Waybill Analysis and
27 our transportation commission has applied the Manitoba
28 formula under a straight 20 per cent increase. Now,
29 to begin with, would you agree the 20 per cent increase
30 is a fairly substantial one?



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A. It is a substantial increase.

Q. If this was less than 20 per cent these figures would of course reflect the lesser amount?

A. That is right.

Q. Now, over on the far right hand column under the heading ---

THE CHAIRMAN: I could not prove that.

MR. MAURO: It is already in, Exhibit 153D of the Manitoba submission. Over in the right hand column appears the difference by applying the Manitoba formula in place of the straight 20 per cent increase.

MR. SINCLAIR: I had anticipated this line of questioning and this is one of the things Mr. Edsforth will deal with. Perhaps my friend would rather put questions to Mr. Edsforth and not to Mr. Roberts, because we do not agree with the calculations and will show why. I hope to hand to my friend in advance, tonight, a recalculation so that he can check it.

MR. MAURO: I think I would still like to put this question to Mr. Roberts, subject to Mr. Edsforth proving that our figures are wrong.

MR. SINCLAIR: I am not saying all the figures are wrong, I am saying we have a recalculation.

MR. MAURO: Q. Could you point out which one of those increases under the Manitoba formula places a disproportionate burden on the short haul traffic? In the case of copper, nickel and ore concentrate it would go up .46, under the Manitoba formula, 1.3 percent, or an increase under the Manitoba



1
2 formula of .7 cents. Is that one of the low rated or
3 short haul commodities that you feel would be bearing
4 a disproportionate share under the Manitoba formula?

5 A. It is that type of traffic, all right.

6 Q. And you feel that this increase ---

7 A. This is one movement, and you would have
8 to look at all of them.

9 Q. Just down there to about -- it only gets
10 up to about 1.8, generally speaking, in the increases
11 and then it tends to fall off and stabilize itself
12 and fall off in the long haul high rated traffic?

13 A. Yes. Well, Mr. Mauro, you would also
14 have to examine other factors that enter into arriving
15 at the formula. That is my answer to that.

16 Q. I notice on the same page, page 34,
17 towards the end of the page:

18 ". . . but to increase to a greater degree
19 than other traffic certainly would bring
20 forth many complaints."

21 You are discussing the low rated heavy loading com-
22 modities and if there is any increase they bring forth
23 many complaints. Has the present horizontal increase
24 tended to bring complaints?

25 A. Well, there have been complaints because
26 naturally there always are when you have an increase
27 in rates. We have met with people concerned and
28 where it was necessary to move the traffic we have
29 made it.

30 Q. There have been plenty of complaints under



1
2 the horizontal method of increase?

3 A. Certainly, and there will always be
4 complaints on increases.

5 Q. Well, can you consider that there has
6 been one really quiet moment since the Second World War
7 on general revenue cases because of these horizontal
8 percentage increases?

9 A. Well, not because of complaints because
10 it has been necessary for us to obtain additional revenue
11 through increases in costs.

12 Q. What was the major complaint of the
13 provinces in the last general revenue case, the 17%
14 case?

15 A. Well, Mr. Mauro, we have always heard
16 from the western provinces ---

17 Q. What about the maritime provinces?

18 A. And the maritime provinces also have
19 complained, the provinces themselves. However, the
20 people we deal with from day to day, we make the
21 adjustments we feel are justified in order to move the
22 traffic.

23 Q. And we expect under this new formula,
24 if the Manitoba formula were instituted you would make
25 the same day to day adjustments with your shippers?

26 A. We would have to, but we think there
27 would be more adjustments because of the method of
28 applying the increase because people would think they
29 were being unfairly treated.

30 Q. On page 35, we are not talking of the



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Manitoba proposal, you say:

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"The 50/50 method of increase does not

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meet the tests which I referred to earlier

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as controlling the method to be applied

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in general revenue cases."

7

Now, for my own purposes I have numbered these, and

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No. 1 is that it is not practical and is unfair to

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shippers and railways alike. I suggest to you that

10

the present method of horizontal percentage increase

11

has proven impractical and grossly unfair?

12

A. I do not agree with you.

13

Q. The next one is that it is unfair to the

14

short haul shipper. I suggest to you the present

15

method of horizontal percentage increase is unfair to

16

the short haul shipper?

17

A. No, sir.

18

Q. No. 3 is it places an undue burden on

19

low rated traffic. I suggest the present method places

20

a burden on high rated and captive traffic?

21

A. I do not agree with you.

22

Q. The fourth point is that it necessarily

23

brings about conflicts. I suggest to you it has

24

resulted in consistent and unnecessary conflict from

25

1946 up to this Royal Commission?

26

A. No. This 50/50 method would bring

27

more conflict with shippers.

28

Q. Your fifth point here is that it would

29

seriously hamper the expeditious handling of general

30

revenue cases. I suggest that our method, far from



1
2 hampering expeditious handling of general revenue cases
3 would, in fact, expedite hearings since in the recent
4 cases it has not been the amount of the increase but
5 the method of applying it?

6 A. I think you would hear from people
7 applying a part flat increase and part flat percentage.

8 THE CHAIRMAN: It is apparent there is a
9 difference of opinion between counsel and the witness.

10 MR. MAURO: Q. That always makes for some
11 keen discussion, especially with a man of Mr. Roberts'
12 standing.

13 The sixth point is that it would result in
14 the increase not being applied proportionately or
15 evenly and thus would disturb the basic freight rate
16 structure. I suggest our method would more accurately
17 reflect the proportion of increased costs between
18 terminal and line haul which would have necessitated
19 the increase?

20 A. I do not think it would result in a
21 proportionate application of the increases at all.

22 Q. It would distort the basic freight
23 rate structure, I suggest, far from that, it would tend
24 to preserve the basic equality in the freight rate
25 structure?

26 A. No, it would distort it.

27 Q. I notice on page 36 you say:

28 "It believes that any method of general
29 increase which can be applied which is not
30 on the horizontal percentage increase method,



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will adversely affect low rated heavy

3

loading commodities, short haul shippers

4

and railways."

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My only point, which I trust you will agree with, is

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that this Commission must also be concerned with the

7

adverse effect of the present method of high rated

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commodities and the long haul shipper?

9

A. Well, the Commission must consider all

10

aspects, but we feel that the application of any other

11

method would have that impact on the short haul shipper.

12

Q. Now, the next point I would like to deal

13

with is this matter of just and reasonable rates. As

14

I understand your submission, and I think it is the

15

position of the Board of Transport Commissioners, a

16

just and reasonable rate is a rate which returns its

17

variable costs?

18

A. Plus something.

19

Q. Well, now, at page 48 you say:

20

"A just and reasonable freight rate is one

21

that has variable cost as the floor or

22

minimum."

23

Now, in other words, if a shipper complained either to

24

you or the Board of Transport Commissioners, as I read

25

that statement, if you could show that the freight rate

26

being complained about returned your variable cost, in

27

other words, that it must not be low, that if it did

28

not return its variable costs it would be deemed to

29

be a just and reasonable rate?

30

A. Well, to my way of thinking, and perhaps



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I did not express myself properly here, but certainly I want something above this floor. I mean, the floor is the danger signal below which I will not go and I need something more than that for my services.

6

Q. This is a point I just want to clarify it for this Commission, because we have heard an awful lot about just and reasonable and we now have a statement from an authority on this matter who is dealing with these rates from day to day, you are now telling us that while a rate that returns your variable cost is just and reasonable you, as a traffic manager, want something a little bit above just and reasonable?

14

A. Well, I do not know of any rate that would be in the structure that is at the variable cost, at the floor. Our rate makes a contribution over the floor, the cost of performing the service, and that is what we must seek.

19

Q. I am not trying to trick you into anything, as if I could, but the point is -- for instance, you had the "At and East" grain rates and you have told us some of them are perhaps not compensatory?

23

A. Right.

24

Q. Now, could bringing this up to your variable cost, if you could bring this right up to variable cost, which includes the cost of money and depreciation, variable cost is a certain satisfactory level of rate, and if you brought these rates up to that level according to what you have said on page 48 this floor or minimum is the test of just and reasonable?

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A. Well, of course, even if we carry the traffic, if we set the floor as being proper for a just and reasonable rate then it would not be just and reasonable in so far as the shipper is concerned because that traffic would not be contributing anything.

COMMISSIONER GOBEIL: Would you not have used that sentence because, the way I understand it, it is what the Board of Transport Commissioners consider as compensatory?

THE WITNESS: Well, the Board of Transport Commissioners would be the judge of the just and reasonable rate.

COMMISSIONER GOBEIL: All right, but when they talk of a compensatory rate, it is not a rate which meets variable cost?

THE WITNESS: It meets the variable cost plus something.

THE CHAIRMAN: You must live?

THE WITNESS: Absolutely.

MR. MAURO: Q. But under that class it was your statement that a just and reasonable freight rate is one that has variable cost as the floor or minimum. Now, do you have any upper level of just and reasonable, for instance, if a rate returned twice its variable cost, how much just and reasonable would that be? Is it a really just rate?

A. The justness and the reasonableness would be the ability to move the traffic freely to



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maximize the railways' revenues.

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Q. That would have nothing to do with whether it was just and reasonable because if it was just returning its variable cost it would be just and reasonable as far as you are concerned?

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A. Well, just and reasonable with the variable cost as a floor, as I say, in my day to day work I expect a contribution from the traffic we handle.

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COMMISSIONER ANSCOMB: May I interject here and ask a question? This is very confusing for a business fellow and I just want to see what it is all about. It is just and reasonable, to whom as you express it in these two lines.

16

17

18

THE WITNESS: Well, it works both ways, it works just and reasonable to the shippers in Canada and just and reasonable to the railways.

19

20

21

COMMISSIONER ANSCOMB: Well, then, may I ask you this: if you did your whole business on that basis how long would you be in business?

22

23

24

THE WITNESS: We would not be in business.

25

26

MR. MAURO: Q. Finally, on page 37 this statement appears:

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"The second is that because of increasing competition, the contribution which the higher rated traffic has been making in the past to the lower rated traffic is not



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now possible and low rated traffic must

3

now carry more nearly its proportion of

4

total cost."

5

So, Mr. Roberts, I would expect that you and the

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Canadian Pacific Railway would agree and support any

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method that would result in the low rated traffic

8

carrying more nearly its proportion of total cost?

9

A. We are endeavouring to come to that

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conclusion that it carries ---

11

Q. But you would support any method which

12

could more equitably proportion the proper total cost?

13

A. If it was a moving application without

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a loss of traffic.

15

Q. And you are willing to go along with

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this Commission in their deliberations and their de-

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cisions on what they think can better achieve this

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proportionate distribution of total cost?

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THE CHAIRMAN: This Commission can only

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recommend.

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MR. MAURO: That is all we would expect the

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Commission to do. We do not want to take away from

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you your right of appeal.

24

MR. SINCLAIR: At least we generally give

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notice and let the other side appear, and there are

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people who have not always done that, and I have in

27

mind demurrage.

28

MR. MAURO: Thank you very much.

29

THE CHAIRMAN: Mr. Carter.

30

MR. CARTER: Mr. Chairman, Mr. Gordon Blair



1
2 is here and has one or two questions he would like to
3 put to Mr. Roberts. As far as I am concerned it is
4 satisfactory to let Mr. Blair precede me at this
5 point.

6 THE CHAIRMAN: Very well. Mr. Blair?

7 Mr. BLAIR: Mr. Chairman, I regret I am only
8 an occasional visitor at these proceedings.

9 THE CHAIRMAN: We are always very glad to
10 see you.

11
12 CROSS-EXAMINATION BY MR. BLAIR:

13 Q. If I direct any questions which have
14 been dealt with by other counsel I will have to ask
15 the indulgence of the Commission. I have not got
16 a transcript before me, but I do intend to refer to
17 the submission of the Canadian Pacific Railway entitled
18 "Rate Changes in General Revenue Cases." This is
19 a summary of your evidence, is it not?

20 A. That is right.
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2 Q. Mr. Roberts, first of all I would like
3 to direct your attention to page 4 of the summary, in
4 the bottom part of the first paragraph, where you say,
5 "Nothing is clearer than that jurisdiction of the Board
6 of Transport Commissioners is not that of an economic
7 planning board." What, precisely, do you have in mind
8 in making that statement?

9 A. Well, I had in mind there the fact that
10 the Board of Transport Commissioners through the medium
11 of the freight rates might apportion the markets of this
12 country to different areas of this country.

13 Q. Well, are you suggesting that a decision
14 of the Board of Transport Commissioners does not have an
15 economic effect?

16 A. So long as the decision of the Board of
17 Transport Commissioners is equitable and it applies so
18 far as all shippers are concerned, it does not have that
19 effect at all.

20 Q. What sort of things do you think the Board
21 of Transport Commissioners should not consider if it is
22 not to be an economic planning board?

23 A. It should not, for example, consider the
24 wages of one man's operations, the land tax that he pays;
25 these are all factors that enter into the operation of
26 a business.

27 Q. Do you think the Board of Transport
28 Commissioners should give consideration to the position
29 of competing commodities as, for example, different forms
30 of energy and their ability to penetrate particular



1
2 markets?

3 A. The different forms of energy?

4 Q. Such as coal or natural gas or oil?

5 A. Well, so long as each is in its natural
6 place in the rate structure, then I do not think there
7 can be any quarrel between themselves.

8 Q. What if certain commodities are not
9 transported by rail -- and I have in mind particularly
10 natural gas and petroleum, which are substantially
11 transported by pipeline? Do you think the Board of
12 Transport Commissioners should give any consideration
13 to the cost of those commodities and the cost of their
14 transportation in considering the cost of transporting
15 other forms of energy such as coal?

16 A. Well, that would be a competitive
17 situation -- crude oil moving by pipeline versus coal
18 moving by rail, and we have, ourselves, met situations
19 like that.

20 Q. If the railways do not choose to treat
21 this as a competitive situation, would you think it
22 proper or improper for the Board of Transport
23 Commissioners to consider this in deciding what the
24 level of particular rates should be?

25 A. I think the ramifications of a question
26 like that are pretty great, Mr. Blair. The Board of
27 Transport Commissioners deals with transportation. When
28 any competitive situation arises, the railways may meet
29 this situation if they can make money.

30 Q. Well, if the -- and I come back to my



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2 basic question -- if the railways do not choose to
3 consider it a competitive situation, then would you
4 consider it not the duty of the Board of Transport
5 Commissioners to give consideration to the competing
6 aspects of these different forms of energy in a market?

7 A. You mean that the Board should decide where
8 the railways should meet competition and where they should
9 not? I do not think that is proper.

10 Q. If the railways and the Board choose not
11 to give consideration to these factors, are they not then
12 making a positive economic decision by their very omission?

13 A. Mr. Blair, it may not be possible for the
14 railways to meet the situation. It may not be possible
15 for the railways to meet the situation.

16 Q. We are not at this stage so concerned with
17 the possibility of the railways meeting the situation.
18 I am dealing with what the Board should do -- what the
19 jurisdiction of the Board should be?

20 A. I think, Mr. Blair, that the jurisdiction
21 of the Board as it is presently constituted as far as
22 normal rates are concerned is sufficient. The railways
23 should be able, themselves, to meet competition where
24 and as it arises.

25 Q. And you do not think that the Board should
26 give consideration to the fact that other forms of
27 fuel or energy which may be moving other than by rail do
28 challenge the market of coal or other commodities which
29 move by rail?

30 A. Likewise, they should give consideration



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2 to fresh apples versus canned apples.

3 Q. And you do not think that by failing to
4 take these factors into consideration that they, in
5 effect, make economic decisions?

6 A. I say that so far as competition is
7 concerned, we should be left to make up our own minds.

8 Q. I hear that, but I am talking of the
9 jurisdiction of the Board.

10 A. Well, I think that is my answer to you,
11 that the railways should be able to make up their own
12 minds insofar as competition is concerned.

13 Q. And all of these larger matters of
14 competition between different types of commodities, that
15 is not the business of the Board -- is that your answer?

16 A. Well then -- this is a federal body, and
17 it would be interfering, in my estimation, in the working
18 of a normal business. Why should it be any different
19 from the automobile manufacturer or the apple grower,
20 or any other industry like that? Why should there be
21 any difference so far as the railways are concerned?

22 MR. SINCLAIR: You should not be asking learned
23 counsel questions, Mr. Roberts.

24 MR. BLAIR: Q. Mr. Roberts, you apparently
25 are of the opinion that it is not the business of the
26 Board of Transport Commissioners and should not be the
27 business of the Board of Transport Commissioners to
28 concern itself with whether or not a particular
29 commodity will be unable to reach a market in
30 competition with other commodities which might be carried



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2 by other methods than railway?

3 A. I think it is up to the railways to meet
4 competitive situations themselves.

5 Q. Mr. Roberts, dealing with page 7 of your
6 brief, in the fourth full paragraph you state, "For
7 shippers, it must not be an attempt to offset economic
8 or geographic advantages or disadvantages. It must not
9 favour a shipper of one commodity over the shipper of
10 a competing product." What do you mean by that?

11 A. Well, the increase must be applied
12 proportionately to the rates that are moving the
13 traffic at the time the increase is applied.

14 Q. Are you aware of any rates now which
15 might give a geographic advantage to one shipper over
16 another shipper?

17 A. No.

18 Q. You say there is no such a rate in
19 existence at the moment?

20 A. Not normal rates. You are representing
21 the Lignite Coal Dealers Association, are you. Well,
22 of course, your question is in respect of Lignite Coal
23 -- the increase applied to lignite coal versus the
24 increase applied to Alberta coal. In other words, it
25 applies to all forms of coal regardless.

26 Q. Would you consider that the pattern of
27 increase which has occurred since the war has conferred
28 a geographic disadvantage on the lignite coal producers?

29 A. Well, of course, basically the rates on
30 coal from Saskatchewan are on a lower basis than the rates



1
2 from Alberta.

3 Q. But you would not think the fact that
4 flat cents per ton increases have been applied to a
5 low priced commodity moving over a short distance places
6 that commodity at a disadvantage?

7 A. We have already stated -- I stated this
8 to Mr. Brazier yesterday -- that we are in favour of
9 an overall percentage increase, and in each decision of
10 the Board, as you know, there has been a flat increase
11 on coal.

12 Q. I would like to direct your attention
13 now to pages 25 and 26, the first full paragraph on
14 page 25, which reads in part as follows, "A practical
15 experience demonstrated to the Board that attempting to
16 make exceptions in a general revenue case only leads to
17 conflict of interests, an unfair burden on some shippers
18 and the preferment of others and generally unsatisfactory
19 conditions obtaining all around." Do I take it from
20 that you are not in favour of having special interests
21 of any particular commodity considered in a general
22 revenue case?

23 A. I have said so far as I am concerned
24 the horizontal increase is the most equitable way of
25 obtaining the increased revenue necessary.

26 Q. I do not quite hear your answer to my
27 main question. Do you think there is room in a general
28 revenue case for the consideration of the position of
29 particular commodities?

30 A. Well, if there was room for consideration



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2 such as that, if they were heard, I think we would never
3 get out of the Court Room, sir. The fairest method of
4 applying an increase is to apply it generally and then,
5 wherever it is necessary remove whatever is necessary
6 to keep the traffic moving.

7 Q. Are you of the opinion that the remedies
8 given by the present law to particular shippers are
9 fully effective in permitting them to make complaints
10 against the level of rates applicable to their products?

11 A. Well, they have recourse to the Board of
12 Transport Commissioners, sir, whenever they feel they
13 are being unfairly treated.

14 Q. Are you familiar for example with the
15 long history of lignite coal complaints to the Board of
16 Transport Commissioners?

17 A. Well, of course -- you mean each general
18 revenue case? In each general revenue case?

19 Q. Are you aware of the fact that at one
20 stage they were advised in a general revenue case this
21 was not an appropriate form for their complaint?

22 A. I do not know those words were used
23 exactly, but it was suggested that if they felt that
24 some adjustment was necessary they should apply to the
25 railways, and if they could not get satisfaction then,
26 they had recourse to the Board.

27 Q. Are you aware that after this happened
28 they did, in fact, make an application to the Board
29 of Transport Commissioners for an adjustment of their
30 rates and were advised in the last analysis that it



1
2 involved such a wide consideration of competing
3 products that it could not be considered?

4 A. The only occasion I know of, that I have
5 been involved in, Mr. Blair, was the question of a rate
6 to Brandon for the thermal heating plant there which was
7 brought up during a general revenue case and an agreed
8 charge was subsequently entered into to move that traffic
9 and to enable the Saskatchewan lignite producers to sell
10 some of their coal to the Manitoba hydro.

11 MR. SINCLAIR: That was not raised by the
12 lignite people. That was raised by a witness from the
13 Province of Manitoba -- a member of the Manitoba Hydro-
14 Electric Commission. What Mr. Blair is referring to
15 is another matter.

16 MR. BLAIR: Q. You are not able to answer my
17 question as to whether or not this particular industry,
18 which has perhaps come to the Board of Transport
19 Commissioners more than any other, has been able within
20 the present rules to achieve a proper consideration of
21 its position?

22 A. Well, I have no knowledge of any formal
23 complaints or hearings in connection with those rates.

24 Q. And if you made the statement, which I
25 am sure you intended to make, in your evidence that
26 these particular complaints should not be considered
27 in connection with a general revenue case, you did not
28 have present in your mind the position of the lignite
29 interests when you made that statement?

30 A. I am sorry I did not follow that.



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2 Q. As I understand it, you are saying that
3 the position of particular commodities should not be
4 considered in connection with a general revenue case?

5 A. Well, as I have said before, they do
6 have recourse to the Board.

7 Q. But in making that statement and in
8 suggesting that they do have recourse to the Board,
9 you did not have in mind the history of this one
10 industry which it has been demonstrated was not able to
11 have a proper hearing before the Board?

12 MR. SINCLAIR: Counsel, of course, has made
13 that statement, that they were not able to have a proper
14 hearing before the Board. They were represented in one
15 hearing, to my knowledge, by counsel who, I am sure,
16 made certain they had a fair hearing before the Board,
17 and I recall that situation quite vividly, and he may
18 not be the counsel that is now acting for them, but he
19 was of such experience and ability that I am sure he
20 was able to present their case with force and have it
21 considered.

22 MR. BLAIR: Well, of course, the events Mr.
23 Sinclair refers to are well known, and I am never sure
24 whether Mr. Sinclair is arguing or giving evidence. Has
25 he been sworn?

26 MR. SINCLAIR: I think certain members of the
27 Commission could take judicial notice of the fact I
28 have just brought to their attention; it is so well
29 known.

30 MR. BLAIR: Q. Mr. Roberts, I would like to



1
2 direct your attention to page 28 of the evidence, and
3 to save your time and the Commission's time, I would
4 like you to briefly read the paragraph in the middle
5 of the page beginning, "Notwithstanding what I have
6 mentioned ..."

7 A. "Notwithstanding what I have mentioned
8 concerning the somewhat limited length of
9 haul and value range in coal, the fact that
10 flat increases have been applied to this
11 commodity has caused complaints from the
12 lignite producers in Saskatchewan."

13 Q. And the following sentence?

14 A. "This has resulted in conflict between
15 these producers and the Alberta producers of
16 bituminous and semi-bituminous coal which has
17 been in issue before the Board of Transport
18 Commissioners."

19 Q. Mr. Roberts, you have been in attendance
20 at many of these meetings and hearings: do you really
21 think this is the basis of complaint which the lignite
22 producers have made over the years, or is it not the
23 case that their complaint has been directed at the
24 increasing competition of natural gas and that they
25 have sought some form of relief from the Board to enable
26 them to meet natural gas competition?

27 A. I do not recall that specifically, Mr.
28 Blair, no.

29 Q. You are unaware of this evidence?

30 A. I do not recall that.



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2 Q. In the decision of the Board of Transport
3 Commissioners which was dated December 27, 1957, the
4 followings appears:

5 "With regard to lignite coal it was submitted
6 in the further argument that the Board should
7 give consideration to an exception in this
8 article for two reasons: one that it is an
9 extremely low valued article on which the
10 shippers have only been able to raise the
11 selling price during the past ten years by
12 10¢ a ton; and second that the industry is
13 facing a new condition of serious importance
14 owing to the immediate threat of competition
15 of natural gas. So long as the rates are
16 just and reasonable in and of themselves, the
17 second reason is not one that the Board can
18 take into consideration", and so on.

19 Having regard to that judgment can you not
20 recall that the question of the competition from
21 natural gas was raised as a major consideration in
22 these hearings related to lignite coal?

23 A. I honestly cannot remember it being
24 raised as a major issue. It must have been, in view
25 of the remarks of the Board here.

26 Q. Are you satisfied still that the question
27 of competition from natural gas carried by pipeline is
28 something which should not be considered by the Board
29 in considering the rates applicable to another form of
30 energy such as coal?



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2 A. I do not know where situations like that
3 would end. I feel it is the railways' prerogative to
4 meet competitive situations as and when they find them
5 and to the best of their ability.

6 Q. And would you not agree that in recent
7 years the question of coal as it has been discussed
8 before the Board of Transport Commissioners, and before
9 this Royal Commission, has been discussed in terms of
10 competition with natural gas and oil and not with other
11 forms of coal?

12 A. It has been discussed with the railways
13 in those terms because reductions in rates have been
14 made from time to time to meet competition of fuel oil,
15 for example.

16 Q. I would now ask you whether the railways
17 consider it important to preserve coal traffic in view
18 of the fact they cannot carry natural gas?

19 A. We certainly will do everything we
20 possibly can to assist the movement of coal.

21 MR. BLAIR: Thank you.

22
23 --- A short recess ---
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2 THE CHAIRMAN: Order, please. Mr. Carter?

3 MR. CARTER: Before turning, Mr. Chairman,
4 to my cross-examination of Mr. Roberts, I should like to
5 read a brief letter into the record. This is the
6 reply of Dr. Britnell to questions asked of him in the
7 course of his cross-examination by my learned friend
8 Mr. Sinclair. The letter, sir, sets out the page
9 and transcript reference, and it sets out the question
10 and also the answer. The letter, as a matter of
11 identification, is dated October 22nd, 1960, and is
12 addressed to Mr. I. D. Sinclair, and it reads:

13 " October 22, 1960

14 "I. D. Sinclair, Esq.,
15 Vice President and General Counsel,
16 Canadian Pacific Railway Company,
Montreal, Quebec.

17 Dear Mr. Sinclair:

18 Re: Government Assistance in the
Building of the Crow's Nest Line

19 " In paragraph 74, page 37, of the
20 Saskatchewan Submission entitled 'An Historical
21 Analysis of the Crow's Nest Pass Agreement and
22 Grain Rates: A Study in National Transporta-
23 tion Policy', I stated that this proposed govern-
24 ment subsidy toward construction was 'sufficient
25 according to estimates of the company to cover
26 over 40 per cent of the cost of the Crow's
27 Nest line.'

28 " In the course of cross-examination
29 before Hearings of the Royal Commission in
30 Ottawa on September 21 last, you asked me



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2 (Transcript, Vol. 91, pp. 15528-29) if I had
3 any source for this statement. I replied
4 that I did not have my working papers with me,
5 that I thought that the statement had been
6 based on Canadian Pacific data, and that I
7 would be glad to check it.

8 " The basis for my statement is to be
9 found in the statement of the Hon. Mr. A. G.
10 Blair, Minister of Railways and Canals,
11 reported in Canada, House of Commons, Debates,
12 1897, pp. 4603-4 as follows:

13 'As to the probable cost of the road, I
14 may say that, as far as I can learn . . .
15 The only information in the possession of
16 the late Government, and the only information in
17 our possession, has been obtained from the
18 officers and engineers of the Canadian
19 Pacific Railway Company, or rather has been
20 obtained through the company as the result
21 of surveys which have been made by their
22 officers. We have a very careful statement
23 made by them as to the cost of different
24 sections of the road, and that statement
25 shows that it is expected that, outside
26 of the equipment the road will cost between
27 \$25,000 and \$26,000 per mile . . . Taking
28 it altogether, the information we have is
29 that the cost of the road, taking one mile
30 with the other over the 330 miles, will be



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2 in the neighbourhood of \$25,000 or
3 \$26,000 per mile.'

4 " Since the proposed subsidy was \$11,000
5 per mile it was equivalent, on the basis of
6 estimated construction costs of either
7 \$25,000 or \$26,000 per mile, to rather more
8 than 40 per cent of the total estimated cost.

9 " Yours very truly,

10 (Sgd) G. E. Britnell,

11 Saskatchewan Economic and
12 Technical Committee on Trans-
13 portation and Freight Rates."

14 CROSS-EXAMINATION BY MR. CARTER:

15 Q. Now, Mr. Roberts, my name, again, is
16 Carter, and I represent, sir, the Government of
17 Saskatchewan.

18 Now, you have a copy of Exhibit 162 before you,
19 have you not?

20 A. Yes, sir.

21 Q. I spent some little time, Mr. Roberts,
22 over the week end struggling with that exhibit. I may
23 say that when I use the word "struggling" I apply
24 no criticism of you or of your material. The struggle
25 was due, no doubt, to my own ignorance, not due to
26 your material.

27 You could enlighten me on one or two aspects
28 of it. May I direct your attention, first, to
29 the column headed "Revenue at Rates in Effect
30 November 30, 1958". You see that?

A. Yes, sir.



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2 Q. May I ask you how you arrived at the
3 figures shown throughout that column?

4 A. From the rates which were published
5 in the tariff as of that date on the particular movements
6 involved.

7 Q. Yes. Well, now, so that I may under-
8 stand that, going to your second column headed "Revenue
9 at Rates In Effect at Time of Movement", the figures
10 that you there set forth are the figures of actual
11 revenue as shown on the waybills submitted in the
12 Waybill Analysis; is that correct?

13 A. That is correct, sir.

14 Q. Am I right, then, that you then took
15 each of those individual waybills and took it back, so
16 to speak, to November 30, 1958, and computed what
17 your company would have earned if it had moved that
18 traffic at the rate in effect November 30, 1958?

19 A. That is correct.

20 Q. That is, you did -- or, you made each
21 individual computation, did you?

22 A. Correct, sir.

23 Q. The figures then set forth in the column
24 headed "Revenue and Rates in Effect November 30, 1958"
25 do not represent actual revenue earned from traffic
26 actually carried as of November 30, 1958?

27 A. No, sir. That column represents the
28 revenue -- what the revenue would have been on a like
29 movement on November 30, 1958, prior to the application
30 of the 17% increase.



1
2 Q. Yes. And, accordingly, the figures
3 do not give actual revenue?

4 A. Well, it gives actual revenue, sir --

5 Q. That would have been earned?

6 A. That would have been earned. In other
7 words, Mr. Carter, what we are endeavouring to portray
8 here is the impact of the increase on the movement as
9 shown in the Board's Waybill Study.

10 Q. Now, in making that computation that,
11 so to speak, you necessarily assumed that this par-
12 ticular item of traffic which you in fact carried in
13 the study year would have been carried as at November
14 30, 1958, at the same category of rate, if you under-
15 stand me? Do you understand me?

16 A. Well, sir, we checked that to see what
17 the rate was on the particular movement as of November
18 30, 1958.

19 You see, the actual movement may have taken
20 place under a competitive rate which was established
21 after December 1, 1958, when the increase was applied to
22 the rate in effect on November 30, 1958.

23 Q. Just so that I have that clear, if I
24 might interrupt you, you encountered, I take it, then,
25 this sort of situation in preparing this exhibit: you
26 found that on certain of the movements made in the study
27 year -- and, by the way, by the phrase "study year",
28 I mean the year December 1, 1958 to November 30, 1959.
29 Do you understand me?

30 A. Yes.



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2 Q. You found, then, that on at least cer-
3 tain occasions traffic which your company had moved
4 during that study year at, say, a competitive rate,
5 had been carried prior to the commencement of the
6 study year at a normal rate?

7 A. That is correct, sir.

8 Q. What did you do about that situation?

9 A. Well, those movements, sir, are contained
10 in the competitive rated traffic. The rate which was
11 applied on the traffic as it moved.

12 Q. Well, you would have applied some old
13 competitive rate -- if I may use that word?

14 A. Well, no, sir. The rate in effect on
15 November 30, 1958 -- the only rate available in the
16 railways' tariffs on November 30, 1958 was maybe a
17 normal rate.

18 Q. Yes?

19 A. But when the movement actually took place,
20 there may have been competitive factors which brought
21 this about, but the rate which would apply was a
22 competitive rate.

23 Q. Yes.

24 Well, now, again, excuse me, I haven't
25 followed you. Having encountered that type of
26 situation, then in deriving or securing your figure
27 with respect to that particular movement of freight,
28 the figure going into the fourth column, the column
29 headed "Revenue and Rates in Effect November 30, 1958",
30 revenue from such a shipment would have appeared in your



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2 category Traffic at Normal Rates or in your category
3 Traffic at Competitive Rates?

4 A. Competitive rates. If the actual
5 movement took place under a competitive rate.

6 Q. In the study year?

7 A. Yes, sir.

8 Q. As I understand you, as of November 30,
9 1958, there would have been no comparable competitive
10 rate for that particular traffic movement?

11 A. In some instances.

12 THE CHAIRMAN: Had you adjusted it.

13 THE WITNESS: Had we adjusted, sir, well
14 then the new rate, of course, would reflect the com-
15 petitive conditions.

16 MR. CARTER: Q. Now, by the phrase "normal
17 rates" using your first category in this exhibit, I
18 take it you mean class rates and mileage commodity rates;
19 do you?

20 A. Class rates and any normal commodity
21 rates, be they mileage or specific.

22 Q. I had understood from, I think, something
23 you may have said or something somebody said, that a
24 specific commodity rate, in the setting of it an element
25 of competition of some sort was taken into account.
26 Is that so?

27 A. In some instances, but they are not so
28 marked.

29 Q. And you do not characterize that type
30 of rate as a competitive rate?



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2 A. The competitive rate, as designated in
3 the railway's tariffs as competitive rates, sir, are
4 to meet carrier competition.

5 Q. And are marked as such?

6 A. Yes, they are marked as such.

7 Q. You did not, as I understand you, then,
8 in Exhibit 162, include specific commodity rates in
9 the category entitled "Traffic at Competitive Rates"?

10 A. Normal specific rates are all under the
11 normal rate heading.

12 Q. Now, following the authorized 17%
13 increase, your company, I suppose, immediately increased
14 all class rates by the full 17%, did it?

15 A. Yes.

16 Q. Were all the mileage commodity rates
17 increased by the full amount of the authorized increase?

18 A. Yes, sir.

19 Q. Were all of the specific commodity rates
20 similarly increased?

21 A. Yes, sir.

22 Q. I may say the answer to this is very
23 simple, but perhaps you can assist me.

24 As I understand you in your category in
25 Exhibit 162 "Traffic at Normal Rates", you cover
26 traffic moved, first, at class rates; is that right?

27 A. Yes, sir.

28 Q. You cover traffic moved at mileage
29 commodity rates? Is that right?

30 A. That is correct, sir.



1
2 Q. You cover traffic moved at specific
3 commodity rates?

4 A. That is correct.

5 Q. And you do not cover or include traffic
6 moved on any other rate than those three?

7 A. Well, no, but if you are wondering why
8 they should not all be 17 per cent ---

9 Q. You anticipated me correctly.

10 A. The reason for that, Mr. Carter, is that
11 there are coal movements in there on which a flat
12 increase was applied, but they were normal coal rates
13 and they were kept in that category of traffic.

14 Q. I see. Where would that movement be
15 in the various subcategories, if I may call them that,
16 under the heading "Territory"? Where would this
17 coal movement fall?

18 A. They are in practically every movement.

19 Q. Are they?

20 A. Yes, sir. There is coal within the
21 maritimes; maritimes to Ontario-Quebec; within Ontario
22 and Quebec. Now, the one exception there is Ontario
23 Quebec to the west. There is a mixed shipment in
24 there. All the revenue was taken, although some of
25 the traffic did not move at normal rates, but the
26 revenue for the car as a whole was included in this.
27 That is the reason for the slight difference there.
28 There was coal within the west; there was coke from
29 the west to Ontario and Quebec. And, of course, that
30 would be petroleum coke from Moose Jaw, Saskatchewan.



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Q. I have heard of it, thank you.

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A. And, then -- I guess that is the only one. That is the last one.

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Q. Then, you say, sir, in any event that is the only reason why the percentage figures given in the column headed "Percentage Increase in Revenue" in that first category do not read in each case 17?

9

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A. That is right. That is, with this one addition, that from the west to Ontario and Quebec a reduced normal basis of rates was subsequently established on liquefied petroleum gas.

13

14

Q. But I understand you initially saw the full increase applied on that?

15

16

17

A. That is right.

18

19

Q. As at December 1, 1958?

20

A. Yes.

21

22

Q. The full increase was applied?

23

A. That is correct.

24

25

Q. On that particular movement, does the shipper or shippers involved secure the benefit of the subsidy payable under the Freight Rates Reduction Act?

26

27

A. Yes, it is a normal rate, sir.

28

29

30

Q. Having that in mind, that brings me to the next point.

Have you allowed in Exhibit 162 for the effect of the subsidy payable under that statute?

A. We brought all rates up to their full level to represent the charges received in the final analysis by the railways.



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2 In other words, the roll back is included in
3 this, the bridge subsidy is included in this; and, on
4 traffic from the maritimes and within the maritimes,
5 we brought the revenue up to what the normal revenue
6 would be.

7 Q. Well, dealing just for a moment with
8 the Freight Rates Reduction Act, as I understand that
9 statute, briefly it boiled down to this: that, commencing
10 August 1, 1959, I believe, -- to begin with that was
11 the day it came into effect?

12 A. That is correct.

13 Q. And just at that point, the statute and
14 the subsidy payable under it would have been, in effect
15 for one-third of your study year? Four months?

16 A. That is correct.

17 Q. Now, under that statute there was
18 essentially a roll back in the increase?

19 A. That is correct, sir.

20 Q. And it applied, as I understand it, to
21 any class or normal commodity. Is that the phrase
22 you use?

23 A. That is correct.

24 Q. It would apply to any class or normal
25 commodity rate which had experienced the full increase
26 as at December 1, 1958?

27 A. That is correct, sir.

28 Q. Yes. So that, just so that I have it
29 clear, if you had a shipper who prior to the increase
30 was moving his traffic at a normal commodity rate and



1
2 paying \$1, we will assume, immediately upon the increase
3 being authorized his rate would have gone to \$1.17?

4 A. Correct.

5 Q. Yes. And after the subsidy which we are
6 talking about came into effect, that rate would have
7 rolled back to \$1.10?

8 A. Correct.

9 Q. It later went back to \$1.08, but I think
10 that is past your study year?

11 A. That is correct, sir.

12 Q. Coming back, if we may, to this shipment
13 you mentioned, the nature of which I have forgotten --

14 A. It was liquefied petroleum gas from the
15 west.

16 Q. This was a product which, as at December 1,
17 1958, was moving at some normal commodity rate, was it?

18 A. That is right.

19 Q. And that rate was subject to the full
20 17 per cent increase?

21 A. That is correct, sir.

22 Q. And later it was rolled back to \$1.10?
23 The rate would have been?

24 A. That is correct.

25 Q. Well, now, I am afraid I did not under-
26 stand you. As I got it, you suggested that this
27 movement of liquefied petroleum gas in some manner did
28 not in the end result receive the full benefit of the
29 subsidy payable under the statute since it was moving
30 at a normal commodity rate which was increased by the



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TORONTO, ONTARIO

Roberts, cr-ex
(Carter)

17903

1
2 full 17 per cent?
3 A. That is right.
4 Q. I do not understand why it was not the
5 beneficiary of the full effect of the subsidy?
6 A. It was and is.
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2 Q. Well then how, again, does that shipment
3 result in part in the fact that your percentage figures
4 given under the column headed "Percentage Increase in
5 Revenue" in the category entitled "Traffic at normal
6 rates", are not in each case 17?

7 A. Well, for the reason that, as I said,
8 a revised normal basis of rates was arrived at on
9 liquified petroleum gas.

10 Q. Sometime during the study year?

11 A. Yes.

12 Q. Was this a competitive rate of some sort?

13 A. No, I said normal, this is applicable to
14 anybody who ships liquified petroleum gas in Canada.
15 Now, the rate prior to the revision in the normal basis,
16 as you said, was \$1.17. For the sake of comparison the
17 new normal basis may have resulted in a rate of \$1.10.
18 Now, the traffic moves at \$1.10 and because it is a
19 normal basis it received the benefit of the roll back.
20 This is less than the rate that was in effect prior to
21 December 1st or as at November 30, 1958.

22 Q. Thank you. As I understand it, Mr.
23 Roberts, following any general increase in freight rates
24 you anticipate a certain amount of what is termed
25 erosion in or attrition to the traffic your company is
26 carrying?

27 A. That is right, sir, that has been our
28 experience.

29 Q. And as I understand it in working out
30 the percentage increases which you propose to apply



1
2 for you allow for those factors.

3 A. We give weight to those factors, yes.

4 Q. You told me a moment ago that after the
5 17% increase that all mileage commodity rates were
6 increased by the full amount of the 17%?

7 A. Yes, sir.

8 Q. And following any authorized increases
9 are all of the mileage commodity rates invariably
10 increased by the full amount of the authorized
11 percentage?

12 A. They are increased, sir -- not invariably,
13 they are increased.

14 Q. Many of them, if not most, would
15 following any authorized increase go up in any event,
16 I take it.

17 A. All of them, sir.

18 Q. All of the mileage commodities?

19 A. All of the mileage commodity rates and
20 scales, yes.

21 Q. They invariably go up by the full amount
22 of the increase?

23 A. Well, sir, we apply it to them. They
24 do go up, but not invariably -- always.

25 Q. All right, thank you.

26 MR. SINCLAIR: Not in variation.

27 MR. CARTER: Q. Thank you. Now, whether
28 this is general, as I understand it, it commonly
29 happens that your company finds that at least certain
30 of the traffic will, to use your phrase, no longer move



1
2 freely at the increased rate.

3 A. That is correct, sir.

4 Q. Because it has eroded away or it is
5 subject to attrition from competition?

6 A. Competition.

7 Q. And where that has occurred it commonly
8 happens that your company will publish, as I understand
9 it, a competitive rate at which your company hopes the
10 traffic will again move freely?

11 A. That is correct, sir -- by rail.

12 Q. Now, where that happens, I am thinking
13 here of a commodity or freight which prior to the
14 increase was moving at a normal rate -- do you
15 understand me?

16 A. Yes.

17 Q. After the increase for the reasons I
18 have suggested it moves at a competitive rate -- do
19 you understand?

20 A. Yes.

21 Q. And, again as I understand the
22 situation this movement of traffic following an
23 authorized increase from the normal rated category.
24 to the competitive rated category is fairly common.
25 There is a fairly significant movement of traffic
26 from normal rates to competitive rates during this
27 period of readjustment.

28 A. Well, there is a period of readjustment
29 both in normal commodity rates but also in the
30 competitive commodity rates to which we have applied



1
2 the full increase.

3 Q. But in particular there would be a
4 movement of some significance, I suppose, in this
5 period from the normal rated category to the competitive
6 rated category.

7 A. I would not say "some significance".

8 Q. Well, a movement in any event.

9 A. Yes, a movement.

10 Q. Again, as I understand you, coming back
11 to exhibit 162, a pretty significant volume of the
12 traffic on the basis of which these actual revenue
13 figures were arrived at would have received the benefit
14 of the subsidy under the Freight Rate Reduction Act?

15 A. Yes, sir.

16 Q. This is traffic in the category "normal
17 rated"?

18 A. Yes, sir.

19 Q. And, again, the shippers involved on
20 that traffic would only themselves have to pay a 10%
21 increase rather than the full 17% increase. This was
22 the effect to the shipper of the subsidy?

23 A. That is right, sir.

24 Q. We have had a tendency, I suppose, to
25 ensure that such a shipper's traffic continue to flow
26 freely at a normal rate that it would have had that
27 tendency, would it not?

28 A. Maybe if it had gone into effect on
29 December 1st, 1958, but it did not go into effect until
30 August 1st of 1959.



1
2 Q. Well, it was in effect for one-third
3 of the study year?

4 A. Oh, yes, the study year -- no ---

5 Q. It came into effect on August 1, 1959,
6 did it not?

7 A. August 1st, 1959.

8 Q. And your study was ended at the end of
9 November, 1959?

10 A. That is right but the movement in the
11 rates was taking place from December 1st to August 1st.
12 The movement of traffic and the competitive factors
13 which influenced the level of the rates was in effect
14 without the hold-back for the period from December 1st
15 to August 1st.

16 Q. Yes, all right. I can agree with you
17 that if the subsidy had come into effect at the beginning
18 of the study year this tendency which I suggest would
19 have been a much more significant one, perhaps.

20 A. Well, I would say there would have been
21 a different result. Probably traffic that we were able to
22 retain 10% of the increase on. Well, that traffic would
23 not have been affected had the increase been only 10%.

24 Q. Yes. As I understand the situation
25 which is not to any marked extent, may I say, but as I
26 understand the situation the whole situation in relation
27 to the way of setting your rates, fixing your rates and
28 arriving at them is a constantly changing one, is it
29 not? The whole situation out of which you arrive at
30 your rates is in state of continual flux, is it not?



1
2 A. Well, traffic is moving and different
3 movements taking place every day of the year.

4 Q. Yes, quite. But, the force of
5 competition, as an example, as a factor in rate
6 making will, in any twelve month period I suppose shift
7 and vary from types of traffic, shift and vary within
8 areas and between areas.

9 A. Well, I do not know that there has been
10 any significant shift in the competition. I say we
11 have competition facing us all the time.

12 Q. Well, in any event, coming back to the
13 effect of the Freight Rate Reduction Act would you
14 not agree even allowing for the fact that it came into
15 effect in the latter one-third of your study year, that
16 it would have had a tendency to keep traffic moving
17 at normal rates which otherwise might have gone to
18 competitive rates.

19 A. I think by the time August 1st rolled
20 around the situation with respect to normal rates had
21 pretty well settled itself down.

22 Q. So you think it would have no such
23 tendency?

24 A. It may have been of assistance but,
25 as I say, we had this period of eight months where the
26 17% increase was on and it would be my view that the
27 forces of competition in respect of the 17% increase,
28 the actual impact of it, would take place during that
29 period.

30 Q. Well now, to complete this point, as I



1
2 understand you you do not feel that the subsidy under
3 the Freight Rate Reduction Act would have had the
4 effect of building up the revenue in the category of
5 traffic at normal rates where, without the subsidy the
6 traffic might have gone to competitive rates and
7 built-up the revenue earned through those rates rather
8 than from the former category?

9 A. Well, I think if the trucks went after
10 -- wished to carry certain traffic, Mr. Carter, that
11 was attractive to them they would go after it at the
12 level of 110% or 117% which would depend on what their
13 circumstances were. If the traffic had fallen off they
14 would begin to scratch a little bit.

15 Q. Now, as I understand your exhibit it
16 shows that both percentagewise and absolutely you
17 were able to apply more of the authorized increase to
18 normal rated traffic than to competitive traffic or
19 agreed charges. This is obvious, is it not?

20 A. The revenue return from the normal
21 rated traffic is greater than from the competitive
22 traffic in terms of dollars, yes.

23 Q. And in terms of the application of the
24 increase your company was able to apply more of it to
25 the normal rated traffic than to competitive traffic
26 or agreed charges. Do I read the exhibit correctly
27 in suggesting that?

28 A. Well, it was 15.3 insofar as
29 percentage increase in revenue from normal rated
30 traffic, it was 15.3% and the percentage increase in



1
2 revenue at competitive rates was 10%.

3 Q. And nothing on agreed charges?

4 A. Nothing on agreed charges in this
5 study, no.

6 Q. And as you have just said, the exhibit
7 shows that the major part of the increase in your
8 company's revenue came from increases applied to normal
9 rated traffic.

10 A. In terms of dollars but not in terms
11 percentagewise as I gave them to you.

12 Q. Well, I am concerned at the moment with
13 the absolute figures as you put it in terms of dollars
14 and specifically the total increased revenue of
15 \$176,882.54 which your sample shows having been earned
16 following the increase. Of that total \$117,946.56 was
17 earned from normal rated traffic.

18 A. That is correct.

19 Q. Now, as I compute it on those figures
20 then you got, as far as your sample is concerned, 66.68%
21 of your total increase in revenue from the increase in
22 traffic at normal rates?

23 A. 117 in relation to the 176, that would
24 be approximately right. That is applicable all over
25 Canada, of course.

26 Q. Oh, quite. Now, this is, of course a
27 sample study but as I understand your evidence you feel
28 that certain general conclusions can validly been drawn
29 from the sample?

30 A. This is so, sir. The conclusion I draw



1
2 from this is that within Ontario and Quebec -- go
3 down into the summary -- within Ontario and Quebec the
4 contribution from the increase by Ontario and Quebec
5 represented 36.5%. The contribution within the West
6 represented -- this is traffic moving within these
7 areas -- the contribution within the West was 36%.
8 This indicates to me that in Eastern Canada we are
9 obtaining a goodly share of the increased revenue from
10 the increase and we are from Western Canada too but it
11 is not falling heavily on any one section.

12 Q. Now, those are the conclusions which
13 you suggest can be drawn from the sample?

14 A. Yes, sir.

15 Q. May I ask you if this conclusion, in
16 the light of what we have just covered, can also be
17 validly drawn. Can one say from your study that 66.68%
18 of the total increase in revenue secured by your
19 company throughout the whole year, not just on the
20 basis of a sample, following the last increase came
21 from increased rates on normal rated traffic than on
22 non-competitive traffic?

23 A. That is correct, sir.
24
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THE CHAIRMAN: Whether east or west?

3

THE WITNESS: Whether east or west, yes, sir.

4

MR. CARTER: Q. My learned friend Mr. Cooper,

5

I think it was, asked you one or two questions yesterday

6

having to do with long haul -- at least, you were

7

invited to define what was a long haul shipment, I

8

think?

9

A. That is correct.

10

Q. And I understand there was some question,

11

perhaps, in the minds of a railroad man as to what is

12

long haul and what is not?

13

A. No; it is hard to define. You have to

14

look at the commodity involved.

15

Q. Well, let us not get into a semantic

16

discussion. I will ask you this: a shipment from

17

Ontario-Quebec to the west, I take it, you would agree

18

is a long haul movement?

19

A. It is long haul, but likewise a shipment

20

of crude gypsum for 200 miles is a long haul.

21

Q. This particular movement I have suggested

22

to you, you would agree, in itself, is a long haul?

23

A. Yes.

24

Q. Coming back to Exhibit 162, in terms of

25

the value of the freight carried by your company --

26

that is, the revenue received -- and looking at the

27

normal rated traffic and the competitive rated

28

traffic -- those two categories -- from that point of

29

view more freight moved on normal rates than at com-

30

petitive rates from Ontario-Quebec to the west, did it



1
2 not? I refer to lines 6 and 16?

3 A. That is correct, revenuewise, yes.

4 Q. Does that indicate anything as far as
5 tonnage is concerned ?

6 A. Well, I don't follow you, sir.

7 Q. Could one suggest that since, revenuewise,
8 this is the situation that more freight moved over this
9 long haul at normal rates than did at competitive rates,
10 can one conclude from that that a greater number of
11 tons of freight was moved over that haul at the normal
12 rates?

13 A. I would think that would be a fair
14 conclusion, that there were more tons at normal rates
15 than at competitive rates.

16 Q. Looking again at this same exhibit and
17 at the revenue picture shown in it, may I refer you
18 again to those same lines, 6 and 16; do you see those?

19 A. Yes.

20 Q. And those lines again refer to this long
21 haul movement, do they not?

22 A. Yes, sir.

23 Q. Ontario-Quebec to the west?

24 A. Yes.

25 Q. Now, the exhibit shows under the column
26 headed "Increase in Revenue" that from the traffic
27 moved over that haul at normal rates your company earned
28 an increase of \$23,621-odd; that is shown there, isn't
29 it?

30 A. That is correct.



1
2 Q. Whereas from traffic moved over the
3 same haul at competitive rates your company earned an
4 increase of \$5,171-odd?

5 A. That is correct, sir.

6 Q. Now, the total of those two figures would
7 be, of course, on your sample the total increase in
8 revenue secured by your company following the 17 per
9 cent increase from traffic moving over that haul at
10 normal rates and at competitive rates?

11 A. Yes, sir.

12 Q. As I compute it, sir, the portion of
13 that traffic moved at normal rates made up 82.04 per
14 cent of the total increase earned by your company from
15 that movement. I think my computation is correct.

16 MR. SINCLAIR: We will accept the computa-
17 tion subject to check.

18 MR. CARTER: Thank you.

19 Q. From that again, I am wondering whether
20 another general conclusion may be drawn, sir. Can
21 you say that throughout the entire study year again --
22 not merely on the basis of the sample -- can you say
23 that of the total increased revenue as secured by
24 your company from traffic moved from Ontario-Quebec
25 to the west at normal and at competitive rates 82.04
26 per cent came from the normal rated traffic?

27 A. We would accept the percentage.

28 Q. Yes, but one can go further than accepting
29 the accuracy of my computation, can one, and draw that
30 general conclusion which I have suggested to you, if I



1
2 have made it clear?

3 A. I would say yes, but you must, if I may
4 suggest here, Mr. Carter, as I said to Mr. Mauro at
5 noon today, the figures reflect the revenue for the
6 service performed and in evaluating this, as I said to
7 Mr. Mauro, the revenue paid for each unit of service
8 within the west and from the east to the west and within
9 the east plus from the west to the east, the figures
10 show that a revenue of \$1 was earned for approximately
11 the same amount of revenue ton miles of service.

12 Q. Yes. One last point, if I may, on this
13 exhibit, sir. May I refer you to lines 7 and 17.
14 These show under the column headed "Increase in Revenue",
15 opposite those lines, the total increase in revenue
16 earned by traffic moved within the west at normal
17 rates and by traffic moved within the west at com-
18 petitive rates?

19 A. Yes, sir.

20 Q. Again, as I compute it, of the total
21 increase earned on your sample study by your company
22 from that movement of traffic at those rates, normal
23 and competitive, 73.91 per cent of the increase was
24 provided by traffic moving at normal rates within the
25 west? Again I think here my computation is correct.

26 A. I would accept it.

27 Q. Again here, I take it, one could draw
28 a further general conclusion from your exhibit that
29 throughout the entire year, again quite apart from a
30 mere sample, that throughout the entire year, of the total



1
2 increase in revenue earned by your company within the
3 west at normal rates and at competitive rates, 73.91
4 per cent was earned from the normal rated traffic?

5 A. Well, statistically, yes; but, Mr.
6 Carter, I think you will have to examine the type of
7 traffic that is moving within the west at normal rates,
8 and the amount of traffic and the service performed
9 for each of the items that you mentioned.

10 Q. You say that statistically one can draw
11 this conclusion. Again, sir, the conclusions which
12 you drew in your evidence, as they are set forth in
13 your precis of evidence, as I understand it, you did
14 not suggest that they were merely statistical con-
15 clusions, but conclusions of general validity?

16 A. They show the amount of the increase
17 paid on particular types of traffic within different
18 areas.

19 Q. Is this conclusion I am suggesting to
20 you not one of similar general validity?

21 A. But in actual amounts you would have to
22 examine the service performed; that is all I am saying
23 to you.

24 Q. One last question on Exhibit 162:
25 in line 18 you refer to a movement at competitive rates
26 from the west to Ontario-Quebec; do you see that line?

27 A. Yes, sir.

28 Q. Can you give me some idea of what that
29 traffic is made up of, or is this too vast a question?

30 A. Well, I would say there would be livestock



1
2 in there -- I am sorry, I don't have the detailed figures
3 with me.

4 Q. Very well. Could you tell me this, Mr.
5 Roberts: where did that traffic originate -- and in
6 representing the client I do I am particularly in-
7 terested in knowing whether any part of it originated
8 in Saskatchewan?

9 A. I am sure some of it did. I am quite
10 sure some of it did.

11 Q. Would it be too stupendous a task to
12 find out for me the percentage of the traffic which
13 originated in Saskatchewan and from which you earned
14 altogether the revenue figure you show on Exhibit 162?

15 MR. SINCLAIR: I wonder, Mr. Chairman, if
16 my friend would be satisfied if we would give him a
17 few movements rather than going into each of the
18 myriad of waybill cards involved behind this exhibit?

19 MR. CARTER: Yes.

20 MR. SINCLAIR: What you want is a number of
21 different types of movement of different commodities?

22 MR. CARTER: That is right.

23 MR. SINCLAIR: Well, we will go through them
24 for you and I will write to my friend.

25 MR. CARTER: Thank you.

26 MR. SINCLAIR: I may say, Mr. Chairman, this
27 is done largely manually and it has not been machined.
28 If it had been done on a machine we could have lifted
29 the figures out.

30 MR. CARTER: Q. May I refer you to page 7 of



1
2 your brief, which is becoming rather a famous page.
3 You set out there certain principles which in your
4 company's view any method of increasing freight rates
5 must satisfy?

6 A. Yes, sir.

7 Q. And one of those principles is this, that
8 the method must be fair to the shipper and railways alike.
9 Underneath that statement of that principle you say,
10 at page 7, "For shippers it must not be an attempt to
11 offset economic or geographic advantages or disadvan-
12 tages." Do you see that?

13 A. Yes, sir.

14 Q. I am concerned for the moment just with
15 geographic disadvantages, Mr. Roberts. As I under-
16 stand your company's position it is this: that, in
17 effect, where a geographic disadvantage exists that
18 that is a fact of life and it should not be interfered
19 with in any method of rate change?

20 A. Not in transportation, sir.

21 Q. Yes, as far as transportation rates are
22 concerned, that a geographic disadvantage should not
23 be interfered with in any method of rate change?

24 A. That is right.

25 Q. I suppose distance to market or from
26 source of supply is a geographic disadvantage, is it?

27 A. Well, it depends on the circumstances,
28 Mr. Carter.

29 Q. Well, under certain circumstances this
30 can be a geographic disadvantage, I take it?



1
2 A. If he is selling a commodity in a market
3 that there is a demand for in that market I don't see
4 what the geographic disadvantage would be.

5 Q. As I understand your answer, would you
6 agree that at least under certain circumstances, whatever
7 they may be for the moment, under certain circumstances
8 distance from market or from source of supply can be
9 a geographic disadvantage?

10 A. Well, the more service performed, it
11 costs more money for whatever he is shipping.

12 Q. So the fact of distance can be a geo-
13 graphic disadvantage?

14 A. Yes, that is right.

15
16 ---Adjournment.
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Howe & P. McIntyre

ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

HELD AT

OTTAWA

VOLUME No.

DATE

108

26 Oct 1960

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ERRATA

Volume 108

Page Line

17923 16 "may overcome" should read "may not

E R R A T A

Vol. 108, page 18050, line 28:

delete "non-peak" substitute "known big"

page 18053, line 3:

delete "any" Substitute "in"

page 18055, line 19:

delete "he" substitute "you"

18046 23 "rate traffic," should read "grain
Traffic."



ERRATA

Volume 108

<u>Page</u>	<u>Line</u>	
17923	16	"may overqome" should read "may not overcome".
17929	13	"comparative" should read "competitive".
17929	24	"rates that meet" should read "rates that do not meet".
17940	22	Eliminate "through North Portal, Saskatchewan, to Edmonton".
17940	24	Eliminate "by the through rate".
17958	18	"no revenue" should read "other revenue".
18012	14	Should read "of service. Within Ontario and Quebec and from the West to".
18018	16	"charges," should read "charges up,".
18046	23	"rate traffic," should read "grain Traffic."



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I N D E X

Page No.

ROBERTS, J.M.

Cross-examination

By Mr. Carter (resumed)

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By Mr. Frawley

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By The Commission

Mr. Gobeil

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Mr. Mann

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Mr. Platt

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Re-examination

By Mr. Sinclair

18062

NO EXHIBITS IN THIS VOLUME



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held
in the Court Room, Board of
Transport Commissioners
Offices, Ottawa, Ontario, on
the 26th day of October, 1960.

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Major N. Lafrance	Assistant Secretary



Ottawa, Ontario,
Wednesday,
October 26, 1960.

--- On commencing at 10:00 a.m.

THE CHAIRMAN: Order, please.

MR. CARTER: Q. May I take you back for a moment to exhibit 162, Mr. Roberts?

A. Yes, sir.

Q. Did the Canadian Pacific Railway carry out a similar study following any of the earlier authorized increases?

A. No, sir.

Q. Now, we adjourned yesterday afternoon, Mr. Roberts, I had drawn your attention to page 7 of your precis of evidence. I was concerned with the first sentence of the last paragraph on that page, which reads:

"For shippers, it must not be an attempt to offset economic or geographic advantages or disadvantages."

I was addressing certain questions to you having to do with geographic disadvantages. At the time of the adjournment, you had agreed with me, if I recall it, that at least under certain circumstances distance might be a geographic disadvantage?

A. Yes, that is correct, Mr. Carter, when one shipper is moving his products 1,000 miles and the other shipper, into the same market has only a distance, say, of 100 miles to cover.



1
2 Q. Quite. As I understand the position of
3 your company, a method of rate change which sought to
4 interfere with that particular disadvantage would in
5 its view be unsound?

6 A. Well, to interfere with the movement of
7 traffic over long distances for one shipper in favour
8 of a shipper who only moves his traffic a shorter
9 distance, I think, then, sir, we would be attempting to
10 get into economics, then, rather than transportation.

11 Q. Put it generally for the moment.. I
12 think you agreed with this suggestion yesterday, that
13 in the view of your company any method of rate change
14 which interfered with a geographic disadvantage would
15 be an unsound method?

16 A. Well, we may overcome geographic
17 disadvantages, sir. The location of one particular
18 industry or a deposit of natural resources -- I mean,
19 there's where they are located in relation to the
20 market, and I do not think transportation should be
21 used to offset such a situation.

22 Q. Yes. And putting it generally, again,
23 essentially, as I understand your position, you say
24 that any method of rate change should not interfere
25 with a geographic disadvantage?

26 A. That is correct.

27 Q. Yes. With the application of the
28 horizontal percentage increase in freight rates, it
29 frequently happens, does it not, that in terms of
30 dollars and cents the long haul shipper, following the



1
2 increase, will pay more than the short haul shipper?

3 A. In terms of absolute differences, yes,
4 but not proportionately. The relationship between the
5 transportation charges remains the same, Mr. Carter.

6 Q. This is what you term rate relationship?

7 A. That is right, sir.

8 Q. Again, in absolute terms, however, this
9 will increase the geographic disadvantage which the
10 long haul shipper is at?

11 A. That is correct, in accordance with the
12 service performed.

13 Q. Yes. And this, in the view of your
14 company, is all right?

15 A. Well, this is one of the things that we
16 have to live with, sir. When you are moving something
17 over long distances, I mean, you have a certain amount
18 of service to perform and you should be paid properly
19 for that service.

20 Q. This, however, in the view of your
21 company does not mean that this method is unsound?

22 A. The present method, sir?

23 Q. The horizontal percentage increase
24 method.

25 A. No, sir, it is not unsound.

26 Q. Well now, am I to understand, then, sir,
27 that in the view of your company a method of rate
28 change which does not offset a geographic disadvantage
29 but which magnifies it is a sound method?

30 A. Which does not offset geographic



1
2 disadvantage, but magnifies it. Well, sir, it does not
3 magnify it; it does not change distance. It is the costs
4 of the transportation that are going up, and the charge
5 that has to be paid for that service. This is the basis
6 for it, Mr. Carter.

7 Q. Again, however, in absolute terms it
8 will magnify the disadvantages?

9 A. Well, any differences -- it does change,
10 of course, because you have a different base, each base
11 reflecting the service you perform, but still
12 proportionately they remain the same.

13 Q. Yes. Having in mind, however, the
14 absolute effect as between the long and the short haul
15 shipper which an increase in rates under this method
16 will have, is it still the view of the Canadian Pacific
17 Railway that such a method may be properly be called a
18 fair method?

19 A. I think it is a fair method, sir. Of
20 course, this is what we consider the equitable way of
21 applying the increase in cost. You see, one shipper,
22 by reason of his location, is located closer to his
23 markets, and we should not be attempting to take that
24 advantage away from him. One shipper has his natural
25 market close to his plant and reaches out a certain
26 distance into other markets.

27 Now, another shipper is located closer to
28 the second market that the first shipper is reaching out
29 to get into.

30 Now, this is something, sir -- it is geographic;



1
2 it is something that we cannot control.

3 Q. And the fact that the long haul shipper
4 in absolute terms, again, will pay more is in the view
5 of your company one of the facts of life which he has
6 to live with?

7 A. It is, sir, in relation to the service
8 we perform.

9 Q. Having that in mind, would you not agree,
10 perhaps, that a better way of describing such a method,
11 if a description must be sought, rather than calling it
12 fair, having in mind the position of the long haul
13 shipper, would be to call it a proven and workable
14 system or a workable system?

15 A. I think it is workable and equitable.

16 Q. Well, one cannot say of it, surely, that
17 in some sort of ideal way it is fair, so that in some
18 sort of ideal way, having in mind, again, the position
19 of the long haul shipper, that it evenly divides the
20 burden?

21 A. Yes, sir, each shipper is treated the
22 same, Mr. Carter.

23 Q. But treated the same only in the sense
24 that this rate relationship is maintained?

25 A. Sir, the increase is applied
26 proportionately to rates.

27 Q. So as to preserve this rate relationship?

28 A. The rate relationship in differences in
29 cents is not sacred. These differences are inherent
30 in the service performed. Now, they reflect the



1
2 service performed and the increased costs are applied
3 proportionately to the charge we receive for the service
4 we perform to take care of the increased costs.

5 Q. You say that the rate relationship as
6 a principle is not sacred.

7 A. Well, sir, there's differences in rates,
8 Mr. Carter. There's differences in rates on different
9 commodities. Now, this is the way they happen to be.
10 A difference of 5¢ in one rate; and 10¢ in the other.
11 But that does not have to remain as it is.

12 Q. What I am coming to, Mr. Roberts, is
13 this, that it does seem to me that the man on the
14 street, perhaps this is the average shipper, the long
15 haul shipper, that if following an increase his absolute
16 position worsened if he had to pay out more in dollars
17 and cents, that the fact that his rate relationship
18 may still be maintained will perhaps be pretty cold
19 comfort to him?

20 A. Sir, the method of horizontal percentage
21 increases applies the increased cost proportionately
22 over the rate structure; proportionately and equitably.

23 Q. As long as this is achieved, in the view
24 of your company, the method, you say, is sound?

25 A. I think it is sound and equitable.

26 Q. May I take you to page 15, Mr. Roberts,
27 of your precis. Just before I turn to that, the
28 Chairman yesterday, I think, Mr. Roberts, asked you a
29 question having to do with taper which as I understand
30 it is in effect built in to all rates?



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2 A. Well, the taper reflects the service
3 performed for the distance involved, and insofar as
4 the basic rate structure, which is the class rates,
5 why it has a taper, and the taper in the rate is a
6 method of spreading or reflecting in the rate the
7 smaller relationship of the terminal services to the
8 total line haul service when you get into long haul.

9 Q. Is it the view of your company that the
10 taper is, well, to begin with, the taper involves some
11 attempt to correct the absolute burden following upon
12 the long haul shipper following an increase; is it?

13 A. It recognizes the long distances that
14 are required to move certain types of traffic in
15 Canada.

16 Q. Would it be correct in your view to term
17 it a corrective against the absolute burden which falls
18 on the long haul shipper?

19 A. Well, it is not a burden. It is not a
20 burden; it is just a method of reflecting in a
21 graduated way spreading over the costs on long distances
22 on hauling traffic. That is all, Mr. Carter.

23 Q. I gather, Mr. Roberts, from the
24 evidence which you gave when my learned friend, Mr.
25 Cooper, was examining you, and also certain of the
26 evidence you gave when Mr. Brazier was examining you,
27 that the Canadian Pacific Railway Company favours a
28 system of regulation of rail rates?

29 A. Yes, sir. We favour both minimum rate
30 control and maximum rate control.



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2 Q. Yes. I think you said in answer to my
3 learned friend, Mr. Cooper, that such a system gives
4 some protection to the railway against its rail
5 competitors, and this is one desirable feature of such
6 regulations?

7 A. Well, of course, in the case of minimum
8 rate control, Mr. Carter, I feel there should be this
9 control requiring that the railways should not keep in
10 effect rates which do not meet the variable costs and
11 something more.

12 Q. Yes?

13 A. And that would apply to comparative
14 rates, normal rates, and agreed charges.

15 Q. Yes?

16 A. Now, you mentioned the protection of the
17 railways. Well, as you know, in Canada we have
18 Canadian Pacific Railway, which is privately owned, and
19 we have the Canadian National Railways which is a state-
20 owned railway competing each with the other.

21 It is my view that there should be this
22 minimum rate control to apply to all railways, that
23 requires that they do not publish rates or keep any such
24 rates that meet their variable costs of the service
25 plus something more.

26 Now, I say this for the reason that the
27 Canadian Pacific Railway at sometime in the future
28 might be confronted with the situation where the rate
29 making policy of the Canadian National Railways was
30 based on, say, political considerations rather than



1
2 business decisions.

3 It would be, I think, not good for private
4 railways in Canada to have hanging over them the
5 possibility of the Canadian National Railways being
6 used and operated in competition with the private
7 railways, some of whom I mentioned before, in a manner
8 other than Mr. Gordon has said the railway is operated
9 under his direction.

10 Q. Your fear would be, I take it, that this
11 might lead without regulation to damaging rate wars.

12 A. Well, this, sir, is a possibility in
13 the future. You must always face this.

14 THE CHAIRMAN: You are apprehensive?

15 THE WITNESS: For the future, sir; Mr.
16 Gordon is operating the railway as a proper business
17 enterprise, but we do not know what might happen in
18 the future.

19 MR. CARTER: Q. This, Mr. Roberts, was what
20 you had in mind on Monday in speaking of the protection
21 which a system of regulation afforded?

22 A. That is right, sir.

23 Q. And you told my learned friend, Mr.
24 Brazier, as I read your evidence, that in the view of
25 your company a system of rate regulation is psychologically
26 desirable in so far as the shipper is concerned in that
27 it sets a ceiling?

28 A. Well, that is the maximum rate control.
29 I feel that it is psychological in its effect insofar
30 as the shippers are concerned. The fact that the



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2 railways might be able to charge rates which are .
3 -- they might consider just any rates that they felt
4 they might wish to publish, rather than have this
5 control; and, with that, I would imagine you have to
6 give the permissive level of earnings for the railways.

7 Q. This is another aspect of the
8 regulatory system which makes it, in the view of your
9 company, desirable?

10 A. Well, this is my opinion, sir, yes.

11 Q. Is it the position of the Canadian
12 Pacific Railway that truck rates should be similarly
13 regulated?

14 A. No, sir. No, sir, for the reason that
15 they would be almost impossible to regulate; there are
16 so many of them. And, after all, you have inter-
17 provincial movements, and you have movements within
18 provinces. The provinces have jurisdiction over their
19 own movements, and by the grace of Federal Government
20 they have control over inter-provincial movements.

21 Q. Let us restrict ourselves for a moment
22 to the inter-provincial truck movements, and just
23 looking at that, is it the view of the Canadian Pacific
24 Railway that this is an area where truck rates should
25 be regulated in a similar manner to rail rates?

26 A. Well, sir, I would prefer to see both
27 methods of transportation being used to the best
28 possible advantage.

29 Now, I do not think any regulation is
30 necessary insofar as the trucks are concerned.



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2 Q. Would such a system of truck rate
3 regulation not have this perhaps desirable feature of,
4 for one reason or another, preventing rate wars?

5 A. Well, I do not think there are going to
6 be any rate wars, sir. The trucking industry have to
7 pay their bills and operate just the same as the railways
8 do, so I do not think you are going to get into rate
9 wars. They should perhaps publish their rates, but I
10 do not think that the question of regulation is
11 necessary, other than that.

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2 Q. Does your company not feel that if the
3 maxima were set on truck rates in some regulatory system
4 this would have the same psychological desirable effect
5 which you suggest the setting of ceilings on rail rates
6 as far as shippers are concerned?

7 A. I think the psychological effect is in
8 the Railway Act if we have the maximum controls in the
9 Railway Act.

10 Q. In Mr. Mauro's cross-examination of you
11 you were kind enough to suggest that my client the
12 Province of Saskatchewan would support a continuation
13 of the horizontal increase method?

14 A. I do not think I phrased it just quite
15 like that. I believe, as I understand it ---

16 MR. SINCLAIR: Do not guess, look at it.

17 MR. CARTER: This is found in Volume 107
18 at page 17858 where at line 20 you said:

19 "Saskatchewan, as I recall it, sir, said
20 that while increases, as we both agree,
21 because of changing conditions are
22 necessary, they felt that so far as they
23 were concerned they could not think of
24 any more equitable way of obtaining the
25 additional money necessary.

26 "Q. Your understanding of Saskatchewan's
27 position is that Saskatchewan is support-
28 ing the present method because they do
29 not have any better alternative?

30 "A. Yes, that is right."



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2 Well, I take it that the Canadian Pacific Railway
3 Company is not suffering under the illusion that
4 Saskatchewan feels this present method is fair?

5 A. Well, I do to this extent, that people do
6 not think any increase is fair, you know, it just does
7 not apply to transportation charges alone.

8 Q. Whatever the reason, I take it your
9 company is not suffering under that illusion that the
10 Province of Saskatchewan takes that position that it is
11 a fair method. I am not asking for a comment as to
12 whether it is right or wrong.

13 A. Let us say the province of Saskatchewan
14 think this is the fairest way because ---

15 Q. Well, you have read the province's sub-
16 mission, have you not, Mr. Roberts?

17 A. Yes, sir, some time ago.

18 Q. Well, may I refresh your memory on this.
19 You may recall this from Part III commencing at the foot
20 of page 12, paragraph 33, the province said:

21 "Analyses of the method of applying uniform
22 percentage increases to all rates, generally
23 referred to as horizontal percentage in-
24 creases, and criticisms of the impact of
25 increases thus applied have been made so
26 often that it is scarcely necessary to dis-
27 cuss the matter at any length before this
28 Commission. It should perhaps be noted,
29 however, that the two most serious effects
30 of horizontal increases lie in the higher level



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2 of rates applying to longer distances, and
2
3 in the detrimental effects on long-haul
3
4 in comparison with short-haul shippers.
4
5 Analysis of the problem is easy but a
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6 solution is hard to come by. The reason for
6
7 the difficulty and perhaps the impossibility
7
8 of finding a solution within the rate structure
8
9 relates directly to the basic premise that
9
10 freight rate increases must be sought and
10
11 obtained in areas of semi-monopoly and on
11
12 captive traffic, from which the burden cannot
12
13 be shifted."

14 You recall that being in the submission of the pro-
15 vince?

16 A. Yes, sir.

17 Q. Well, looking at this from the other
18 side, may I take it that the Canadian Pacific Railway
19 supports the Province of Saskatchewan in making the
20 assertion which it does in that part of the submission?

21 A. I would think the C.P.R. position is
22 that the horizontal percentage increase method is the
23 fairest method of applying an increase.

24 Q. I am well aware of that but my only con-
25 cern here is to make sure the Canadian Pacific Railway is
26 not under any illusion as to the position my client
27 takes?

28 A. No, we are not under any illusion.

29 Q. And, essentially, I think you are aware
30 that the position of the province is that it cannot see



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2 other than the existing freight rate structure any
3 workable alternative. This is essentially it, is it
4 not?

5 A. That is right.

6 Q. In other words, it is like death or
7 taxes, we cannot see any workable alternative?

8 A. That is what I said too.

9 Q. And that being my client's position, as
10 you will recall it went on to propose to this Commis-
11 sion in its submission that the Commission consider
12 recommending a national transportation subsidy. You
13 recall that proposal?

14 A. Yes.

15 Q. Am I to take it that your company sup-
16 ports the province of Saskatchewan in turn in making
17 that proposal?

18 A. If the subsidy is to apply to the rail-
19 ways we do not support it. If any assistance is
20 necessary it should be given to the people who need
21 the assistance and the railway should be allowed to run
22 their business as we are endeavouring to do it now.

23 MR. CARTER: Thank you, Mr. Roberts, that is
24 all.

25 THE CHAIRMAN: Mr. Frawley?

26
27 CROSS-EXAMINATION BY MR. FRAWLEY:

28 Q. Mr. Roberts, my friends have spoken to
29 you so exhaustively about your Exhibit 162 that I
30 think I will just ask you to clear up something that



1
2 made me a little curious. You excluded revenue
3 moving from the United States origins to Canadian
4 destinations at joint rates?

5 A. Well, this is based on the Board's Way-
6 bill Study and it applies only to intra-Canadian
7 traffic. Now, there is some intra-Canadian traffic
8 which moves at rates related to rates in the United
9 States, the port related rates and then there is the
10 lumber from British Columbia to eastern Canada and
11 the fruit from the Okanagan to eastern Canada. Those
12 rates are increased by whatever increase is authorized
13 by the ICC in the United States and concurred in by
14 our own Commission. Therefore, the 17 per cent did
15 not apply to those rates and we did not include it.

16 Q. Well, another instance is farm machinery
17 moving from the Chicago area into western Canada; the
18 Canadian portion of those rates would be increased?

19 A. Into western Canada, yes, because those
20 rates ---

21 Q. That machinery moves on a commodity
22 rate to the border?

23 A. I beg your pardon, Mr. Frawley, they
24 would not be included in this statement ---

25 Q. "They"?

26 A. The movement from the United States
27 into western Canada would not be included in this
28 statement because they were international movements.

29 Q. Well, I understood, and that is why I
30 asked you the question because of some -- farm



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2 machinery coming from Moline, Illinois, going to Edmonton
3 moves on what is called the international class rate,
4 C.P.R. W-449L?

5 A. That is C.P.R. issue, that is right, pro-
6 portional rate from border points in western Canada.

7 Q. But that is from the border on from
8 North Portal to Edmonton, agricultural machinery,
9 American origin, of course?

10 A. Yes.

11 Q. They do not originate in North Portal,
12 they originate in farm machinery manufacturing points in
13 the United States and they move in from North Portal.
14 In any event, I put it to you \$1.52 until the 6th of
15 May when you had the effect of the second rollback and
16 it was reduced to \$1.49?

17 A. Yes, sir.

18 Q. Let me say I regarded that as a Canadian
19 rate, am I wrong about that?

20 A. That is a Canadian rate but the movement
21 itself from Moline to Edmonton would be on a through
22 bill of lading travelling on a through waybill from
23 origin to destination and it would not be treated as
24 an intra-Canadian shipment.

25 Q. Well, what you are saying is that that
26 movement, the farm machinery movement from the American
27 origin into western Canada did not take any part of the
28 17 per cent increase?

29 A. The rate which applies for the haul from
30 the border to destination would take the 17 per cent.



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2 Q. That is what I have been told many times
3 and I thought now that I was getting it and I knew I
4 was getting it from a very good source. I thought I
5 had been wrong all that time, but what I have always
6 understood that these farm machinery rates from the
7 border around into Canadian western destination did
8 take the 17 per cent increase?

9 A. Yes.

10 Q. Then it must be regarded as an intra-
11 Canadian movement?

12 A. No, sir, because as I said, the shipment
13 moves on a through bill of lading from Moline to
14 Edmonton and on only one waybill. It is true it is
15 in the United States but it covers only traffic which
16 has its origin and its destination in Canada.

17 Q. Well, we have that particular shipment,
18 the Canadian portion taking the 17 per cent increase
19 but we have not got it in the Waybill Study so we have
20 not got it in your Exhibit 162?

21 A. To that extent this does not cover that
22 traffic; it covers only the traffic which is reported as
23 moving locally between points in Canada.

24 COMMISSIONER BALCH: May I ask a question?
25 It is that 17 per cent increase added on to the origina-
26 ting point, the cost of shipment from the originating
27 point?

28 THE WITNESS: No, sir.

29 COMMISSIONER BALCH: Well, supposing I put
30 it this way: is the provision made from the originating



1
2 point to except the 17 per cent in the cost, in the
3 total cost of shipment, if you get what I mean?

4 THE WITNESS: By the provision do you mean it
5 is applied for the transportation service from the origin
6 point to the destination?

7 COMMISSIONER BALCH: It would be American
8 right from origin to the border?

9 THE WITNESS: Yes.

10 COMMISSIONER BALCH: And the 17 per cent
11 from then on?

12 THE WITNESS: Yes.

13 COMMISSIONER BALCH: Would that be charged
14 from the beginning, is it added to your American costing?

15 THE WITNESS: No, sir.

16 COMMISSIONER BALCH: It is not?

17 THE WITNESS: No, sir, the American rate, the
18 United States rate from Moline, Illinois, to, say,
19 Portal, North Dakota, which is the border gateway,
20 it would be one rate and it would be subject to whatever
21 increase might be authorized at any time by the ICC
22 through North Portal, Saskatchewan, to Edmonton. Then
23 we have a Canadian portion, a separate rate to destina-
24 tion by the through rate and that is subject to in-
25 creases authorized by the Board.

26 COMMISSIONER BALCH: You said there was only
27 one billing through?

28 THE WITNESS: Yes.

29 COMMISSIONER BALCH: So the 17 per cent
30 must be added on to that one billing?



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2 THE WITNESS: Yes, sir, but only to the extent
3 that there are transportation charges in Canada.

4 COMMISSIONER BALCH: That is what I was trying
5 to bring out. Thank you.

6 MR. FRAWLEY: Q. So that we just stumbled on
7 something, did we not, that you have not got that in
8 here?

9 A. That is right, but we are quite clear in
10 our designation that this is taken from the Board's
11 Waybill Study.

12 Q. I am pleased to have you take it and I do
13 not think there is anything malicious about the fact, but
14 I just say that all of the increases which are paid in
15 western Canada on farm machinery originating in the
16 United States simply are not included in your Exhibit
17 162?

18 A. No.

19 Q. And that goes for all the traffic origina-
20 ting in the United States and coming into Canadian
21 destinations that generally travel on single factor
22 joint through rates?

23 A. That is right, it does not indicate that
24 traffic.

25 COMMISSIONER GOBEIL: Would that also apply
26 to traffic originating in Canada and going to the United
27 States like lumber?

28 THE WITNESS: No, sir. You see, lumber from
29 western Canada, British Columbia and Alberta, moves under
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2 through rates into the United States and those rates are
3 related to rates from producing areas in the United States
4 and the west coast and the interior. The rates are
5 maintained at the United States level to enable our
6 lumber to get into United States markets, and, of course,
7 the increase paid, if there are any applied to these
8 rates are increased which are put onto the United States
9 rates, we keep our rates at the same level.

10 COMMISSIONER GOBEL: They do not show on the waybill

11 THE WITNESS: No, it would not have any bearing
12 on this, if I may say so, because the 17 per cent
13 increase would not apply to those rates.

14 MR. FRAWLEY: Q. So, Mr. Roberts, it is not
15 only a case of the farm machinery your Exhibit 162 is,
16 well, shall I say, in error, you know what I mean, you
17 did not attempt to cover it, it is not a mistake you made
18 but in any event it is deficient in that it does not
19 cover not only the farm machinery coming from the United
20 States and going into western Canada but all other traffic
21 originating in the United States terminating in Canada
22 which moves at border combinations?

23 A. What I explained, there is a movement at
24 border combinations using factors which the 17 per cent
25 increase would apply to.

26 THE CHAIRMAN: What would that be about per-
27 centagewise?

28 THE WITNESS: I could not give you a figure ---

29 MR. FRAWLEY: I would not think so, but ---

30 MR. SINCLAIR: Wait till he finishes.



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2 THE CHAIRMAN: Would it be large or small?

3 THE WITNESS: No, it is not a large amount of
4 money in relation to the total.

5 MR. FRAWLEY: Q. Well, let us see how
6 important it is. All farm machinery that is made --
7 there is no tariff on farm machinery?

8 A. No.

9 Q. No customs tariff on farm machinery?

10 A. That is right, and I think the reason for
11 that is there is as much farm machinery, I believe,
12 shipped from eastern Canada into the United States as
13 there is shipped to destinations in Canada.

14 Q. Yes, what I mean to say is, because of
15 the fiscal policy some of the big manufacturing farm
16 machinery companies make all of their tractors in the
17 United States factories?

18 A. That may be.

19 Q. I think you will find International makes
20 all its tractors in the United States whether for
21 shipment to domestic or into Canada or wherever in the
22 world?

23 A. Yes.

24 Q. The tractors are made in the United States
25 because there is no duty or there is no international
26 line at all so far as fiscal policy is concerned?

27 A. That is right.

28 Q. And then that applies to any kind of
29 farm machinery that is manufactured in the United States,
30 it moves as freely into Canada as it moves to domestic



1
2 destinations?

3 A. And vice versa.

4 Q. And vice versa. Now, so much for
5 farm machinery. Can you think at the moment of any
6 other traffic that originates in the United States and
7 moves into Canada on rates which are border combinations?

8 A. There would be a certain amount of
9 machinery, Mr. Frawley, maybe some pipe now. I do not
10 know whether pipe has stopped moving with the construc-
11 tion of pipe mills in western Canada.

12 Q. Let us think of one, of the little known
13 industry known as the oil industry which moves a great
14 deal of what is called oil country machinery and
15 equipment from the United States?

16 A. Yes.

17 Q. A great deal of it, perhaps too much of
18 it is made down in Youngstown, Ohio, and many other
19 important oil machinery manufacturing points. Now,
20 that traffic moves on single factor joint through rates
21 or border combinations?

22 A. I would say on border combinations.

23 Q. Yes, because actually, Mr. Roberts,
24 you do not enter into these -- for a rate to be
25 established on a single factor joint through basis there
26 has to be concurrence by the Canadian railways?

27 A. Yes, it is a joint effort.
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2 Q. As a matter of fact, have there not
3 been attempts in the past to have the Canadian railways
4 concur in putting farm machinery from United States
5 origins on single factor joint through rates?

6 A. Not to my knowledge.

7 Q. Have the American railways not gone
8 into conference with the Canadian railways seeking to
9 arrive at something better than the full class rate
10 from the Canadian border through to destination?

11 A. There were discussions to arrive at a
12 basis, as I recall it, to meet truck competition.

13 Q. Yes, there were -- so I was told.

14 A. Yes.

15 Q. But you people did not think you would
16 go into this kind of thing?

17 A. It was not a question of not thinking
18 we could go into these kind of things. It was a
19 question more, as I recall it, that you had this truck
20 competitive feature of the truckers coming through
21 from the United States and dropping off one piece of
22 machinery in one small town and another piece further
23 along the line. It was a situation like this.

24 Q. It was a spotty thing. You did not
25 think you would bother putting in any joint
26 competitive rates?

27 A. I would not say we did not think we
28 bother putting them in.

29 Q. But you did not?

30 A. We did not, sir, because it was a



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2 situation, after discussing it with the producers, that
3 we did not think we could meet.

4 Q. Did you discuss it with the Hamilton
5 producers and the Branford producers, and perhaps they
6 did not think it would be a good idea?

7 A. No.

8 Q. You did not have any regard to that?

9 A. We did not have any regard for it -- it
10 was a competitive situation we were trying to meet.

11 Q. And you did not meet it?

12 A. No, sir.

13 Q. Do you know now that the low boys are
14 coming in -- throngs of them coming in to Western
15 Canada from American factories with farm machinery?

16 A. It could be because of this situation.

17 Q. I have seen them on the Calgary-Edmonton
18 highway and I imagine they are on similar highways
19 elsewhere, but you are still charging the full class
20 rate?

21 A. We would sit down with people and
22 negotiate through rates with them tomorrow to get the
23 traffic, but there are these situations that are
24 difficult to overcome.

25 Q. Yes, until they are there, and they
26 have overcome you, and you have to put in agreed
27 charges?

28 A. Well, we have not got agreed charges
29 from the United States.

30 Q. Well, I do not know -- you could put in



1
2 a competitive rate in any event?

3 A. Put in a competitive rate without any
4 assurance of getting any traffic.

5 Q. But at the moment you are getting the
6 full class rate on shipments of farm machinery moving
7 into Western Canada from the United States -- the
8 highest rate in the book as it is sometimes called --
9 from the Canadian border in?

10 A. We get the sixth class rate.

11 Q. And that rate from the border into
12 destination -- it gets the horizontal percentage increase?

13 A. Yes.

14 Q. Now, let us look at the same kind of
15 farm machinery moving from Moline, Illinois, to London,
16 Ontario.

17 A. That is correct.

18 Q. That is a horse of another colour?

19 A. These are through rates.

20 Q. Single factor through rates?

21 A. Yes.

22 Q. And they get no part of any Canadian
23 increase?

24 A. But they take the American increases.

25 Q. I would not want you to overlook saying
26 that, but they do not take the Canadian increases, and
27 they did not take that last 17% increase?

28 A. That is correct, but they have taken
29 the last increase that has been authorized by the
30 Interstate Commerce Commission, and they also took the



1
2 previous one, X212.

3 Q. That brings me to what I think is wrong
4 with your horizontal percentage method, and I am not
5 going to start quarrelling with it as being not as good
6 as something else. Let us assume for the sake of this
7 discussion --- and I assure you it is just an assumption
8 -- let us assume it is a perfectly good method of
9 increasing freight rates: you have that system and say
10 you look at the farm machinery rates after you get the
11 authorization for the 17% increase. The Western
12 Canadian farm machinery moving in from American origins
13 and the Western Canadian farm machinery moving in from
14 Hamilton and Brantford in Ontario, they all get the 17%
15 increase?

16 A. Yes.

17 Q. 100% of the 17% increase, and on the
18 farm machinery coming in from Moline and the Chicago
19 area into Ontario, Quebec and the Maritimes, no part
20 of the 17%?

21 A. But ---

22 Q. But they do get the American increases?

23 A. That is right.

24 Q. You always add that in brackets?

25 A. That is right.

26 Q. But they do not get that last 17%
27 increase where the brotherhoods waged the battle to
28 get the wage award and turned it into a freight rate
29 increase --- those were the actual Canadian costs. The
30 Canadian farm machinery in Western Canada paid for that



1
2 wage award, but all the farm machinery from Chicago
3 moving into Ontario, they did not pay for that?

4 A. They did not get that increase.

5 Q. That is what I say is really wrong with
6 this horizontal percentage method of increase --
7 however, that sounds like argument, and there will be
8 a later date for that.

9 You excluded the Crows Nest traffic from
10 this exhibit 162?

11 A. It did not get the 17% increase.

12 Q. I would not think it did. So, it is
13 excluded?

14 A. That is correct, sir.

15 Q. You say on page 7 that the increase in
16 the rates -- and that is the horizontal method, which
17 you think is pretty good -- that it must create the
18 least possible disturbance to the basic freight rate
19 structure. So, it would be a fair assumption, then,
20 to put to you that you regard the existing rate
21 structure as being perfectly satisfactory except for
22 the Crows Nest Pass grain rates?

23 A. To that extent I think that it is
24 moving the traffic of Canada, yes sir; I think it is
25 satisfactory.

26 Q. I was going to take you up on that
27 about moving the traffic in Canada, and I suppose I
28 may as well start now although a little out of order
29 and ask you about that. I am intrigued when you say
30 it is satisfactory because it is moving the traffic in



Canada.

A. That is right.

Q. I do not know what you mean, because if I am a drilling company out in Alberta and I want to get drilling my well under some sort of limitation -- government or otherwise -- I have to get that drilling equipment in there and I have got to pay you your rates whether it is 2% over variable costs or 500% over variable costs, haven't I? I have got to get that well machinery in there?

A. That is correct, but we are also handling the potatoes from Southern Alberta and the fruit from the Okanagan, and lumber from Alberta too.

Q. Yes, I am only talking about rates at the moment -- I will be talking about all of them, the good ones and the bad ones. I am talking about the rate -- and somebody said the other day, without looking at them -- and it may have been my friend, Mr. Sinclair -- that certainly there are rates which are a good deal over variable -- a good deal over out-of-pocket. So, it does not matter about the figure we take; we could take 100, 200 or 400% over variable. You say it is good because it moves the traffic?

A. It is just such instances as that, the machinery, the return that is received from the machinery, that enables the railways in Western Canada, which is primarily, you might say, an extractive area -- the products are potatoes or wheat, fruit -- enables us to maintain rates which moves that



1
2 traffic freely.

3 Q. No, no; it does not move it freely. I
4 do not see what you mean when you say "freely". It
5 moves it because it has to be moved. The fellow at the
6 other end has to have that machinery?

7 A. Sir, I am talking about potatotes and
8 fruit.

9 Q. Oh, I see; you are talking about
10 potatotes and fruit?

11 A. You might say to offset you speaking of
12 machinery.

13 Q. Well, that is the same old thing. That
14 is the slogan I first learned from Frank Evans -- the
15 boots and shoes must carry the sand and gravel.

16 A. That is correct.

17 Q. And that is really the heart of your
18 discriminatory freight rate system?

19 A. Yes, that is correct, cross subsidization.

20 Q. Well, Alberta has put something before
21 this Commission with a view to finding out whether
22 or not we can depart from that and still keep you whole.
23 That is really the issue before this Commission, is it
24 not?

25 A. That is right; you are submitting your
26 views.

27 Q. That is right, and that issue which I
28 have created, I simply put to you -- and I think you
29 will be generous enough to agree with me -- is a
30 major if not the major issue before this Commission?



1
2 A. No. The major issue ---

3 Q. Apart from the Crows Nest rates. Oh, it
4 is nothing compared with that. That is incomparable.

5 MR. SINCLAIR: Well, we will accept counsel's
6 statement.

7 MR. FRAWLEY: It would be a sad situation if
8 it were discovered that these famous grain rates were
9 really compensatory.

10 MR. SINCLAIR: It would be a wonderful thing
11 if that could be shown.

12 MR. FRAWLEY: Well, just wait and see.

13 MR. SINCLAIR: We will certainly wait. We
14 have seen.

15 MR. FRAWLEY: Q. You do think that -- and
16 I will be generous enough to concede that to you -- the
17 grain rates are by far the most important thing before
18 this Commission, as you think, and for the sake of this
19 argument I will agree. But, a very major issue is
20 whether or not something can be devised to get away
21 from the excessiveness of the discrimination.

22 A. Well, this is the provinces' submission
23 -- this is the submission of the provinces to the
24 Commission.

25 Q. Certainly it is the submission of the
26 Province of Alberta, and I take it my friends are
27 certainly not opposing it; some of them are saying the
28 same thing.

29 A. That is right.

30 Q. But is that the best you can say about



1
2 it -- that it is the provinces' submission? Do you not
3 think it is an important issue?

4 A. It is important; it certainly is.

5 Q. Yes. Now, I would like to have you take
6 a look at a very well known document and much referred
7 to, and that is the statement you presented to the Board
8 in the 17% case. It was called originally the 19% case,
9 and it was reproduced in different places, and I am
10 reading from page 23 of Mr. Harries' brief. Now, I am
11 bold enough to say this is the document which resulted
12 in the appointment of this Commission; that is what I
13 think about the importance of this document.

14 MR. SINCLAIR: Is that a question to the
15 witness?

16 MR. FRAWLEY: No, no; that is just an
17 observation.

18 Q. Mr. Roberts, this document says that the
19 revenue from competitive rates was expected by you to
20 provide 17.67% -- a little more than 17½% -- of the
21 \$31 million you needed to pay that wage award?

22 A. That is correct.

23 Q. And it turned out to be, of course, that
24 you ~~were~~ not able to just hit that 17.67% on the nose,
25 were you? You can look at the millions, if you like --
26 the dollars you expected to get out of competitive rates
27 for its contribution to the \$31.5 million that you
28 needed to pay the wage award. The millions were 5½
29 million?

30 A. That is correct.



1
2 Q. But now, because of the vicissitudes
3 of the competitive structure you were not able to get
4 the 5½ million?

5 A. We made an estimate -- the 5½ million
6 represents an attrition of 50%, and I would say that
7 we held pretty close to our estimate.

8 Q. Well, I will suggest, and most politely,
9 the place where I think you are wrong. You fully
10 expected and intended to apply this 17% increase to
11 the incentive rates?

12 A. That is correct.

13 Q. And I think it must be said that you
14 continued to expect that you would apply it to the
15 incentive rates right down after the case was closed?

16 A. This is correct.

17 Q. And even after you had named the date
18 for the coming into effect of the increased rates?

19 A. That is correct.

20 Q. And you found at the last minute you just
21 had to realize and appreciate that you just could not
22 put it on these incentive rates because you would start
23 losing traffic?

24 A. These are the incentive rates between
25 Montreal and Toronto and out in Western Canada?

26 Q. What I call ex-Winnipeg and my friend,
27 Mr. Stechishin tells me there are also ex-Calgary and
28 ex-Edmonton too.

29 A. That is correct.

30 Q. And you discovered you could not put



1
2 them on?

3 A. That is right.

4 Q. So, you did not put them on?

5 A. That is right.

6 Q. So, I suggest there, be it big or
7 little, there is the place where the 17.67% was too
8 high an estimate to some extent?

9 A. No sir, because a situation like that
10 was taken care of in our judgment in provision for
11 attrition of 50% -- such situations like that.

12 Q. Well, you put down the figure of 5½
13 million as what you expected to get from competitive
14 rates?

15 A. Yes, sir.

16 Q. And included in that was increased
17 revenue from the incentive rates?

18 A. Well, it was an assessment of what we
19 would receive after having applied the 17% increase to
20 all traffic, and then by reason of having to remove
21 all or part of it from some of the movements, we
22 would still come up with the 50% revenue yield.

23 Q. But, Mr. Roberts, I find it a little
24 difficult to follow that plus and minus arithmetic,
25 but I certainly had it in my mind that you included
26 in that 5½ million a certain number of hundreds of
27 thousands of dollars you were going to get extra from
28 the incentive rates and you did not get it?

29 A. No sir, because this represents half
30 of what a full 17% increase would have yielded from



1
2 competitive rates if we had held it. In other words,
3 the full yield would be something over \$11 million.
4 Now, we made provisions for attrition and erosion
5 which we estimated would be to the extent of 50%, so
6 the yield was only $5\frac{1}{2}$ million dollars. Now, this
7 yield took into account such situations as our
8 inability to apply the increase to incentive rates in
9 Western Canada, incentive rates in Eastern Canada, and
10 other competitive rates throughout the country.

11 Q. What I now understand from you is that
12 you were expecting to get \$11 million from the
13 competitive rates?

14 A. Well, sir, the theoretical yield from
15 a 17% increase would be \$11 million if we were able
16 to maintain the 17% increase on all rates.

17 Q. In other words, you plussed it by
18 11 million and minused it by half of 11 million and
19 came up with $5\frac{1}{2}$ million?

20 A. That is correct.

21 Q. Notwithstanding that estimate, how did
22 the $5\frac{1}{2}$ million stand up as a figure?

23 A. I think, Mr. Frawley, that the figure
24 was pretty close -- the yield was pretty close to
25 what we estimated on the basis of samples.

26 Q. When you say it was pretty close, it
27 was almost as good -- it was not any better?

28 A. It was a good judgment estimate.

29 Q. In other words, if you had increased
30 your attrition factor by a little more than the 50%



1
2 it would have been a little more accurate, but it was
3 reasonably accurate?

4 A. It was reasonably accurate.

5 Q. And then, the agreed charges were set
6 down here to yield half a million dollars or $1\frac{3}{4}\%$
7 of the \$31 million?

8 A. That is right.

9 Q. And I suppose that was about right,
10 was it?

11 A. We have obtained increases and I would
12 say they were in this neighbourhood, yes.

13 Q. And the reason you got the increases
14 was by the application of the escalator clause?

15 A. No; we negotiated increases on the
16 agreed charges.

17 Q. When they expired?

18 A. No, sir. We negotiated increases on
19 agreed charges which did not carry the escalator
20 clause.

21 Q. In other words, you got some agreed
22 charge contractors to have their rates increased
23 during the currency of the contract?

24 A. Yes, sir.

25
26 --- A short recess ---
27
28
29
30



1
2 THE CHAIRMAN: Order, please.

3 MR. FRAWLEY: Q. Mr. Roberts, I was
4 asking you some questions about this table showing the
5 estimated result of the 19 per cent increase?

6 A. That is right, Mr. Frawley. We were
7 discussing agreed charges.

8 Q. Yes.

9 A. And the yield from agreed charges and the
10 yields shown in the so-called yield statement, what
11 we estimated would be obtained from the agreed charges
12 containing the escalator clause.

13 Q. That is how you get the increase in
14 agreed charges, from the fact that some of the agreed
15 charges contain an escalator clause?

16 A. That is true, and in addition to that
17 figure there have been increases negotiated in other
18 agreed charges since then, so there would be no revenue
19 from agreed charges than is shown in the yield state-
20 ment.

21 Q. Then, the final thing to look at in
22 that famous statement is with respect to the item
23 which was called by you people "all other freight
24 traffic", and which can be translated into the traffic
25 moving at class rates and at non-competitive commodity
26 rates; that that traffic was expected to yield $73\frac{1}{2}$
27 per cent of the \$31 $\frac{1}{2}$ million that you needed for your
28 wage awards?

29 A. That is correct, sir, that is correct,
30 the 17 per cent increase applied to that traffic; that



1
2 was what we estimated the yield to be.

3 Q. So that the efficacy of your
4 horizontal percentage method of increasing freight rates
5 is pretty patently disclosed by this statement which
6 shows that it went on 100 per cent on the class rates
7 on the non-competitive commodity rates?

8 A. It was applied, Mr. Frawley, in exactly
9 the same manner as in connection with competitive rates,
10 but we also had to make adjustments in the normal
11 commodity rates in instances, and in some instances
12 traffic which had been moving at class rates, I have
13 no doubt we had to put in truck competitive rates.

14 Q. Just follow me ---

15 A. An adjustment was made for that in that
16 we estimated there would be an 80 per cent yield.

17 Q. Yes. Now, all I am saying to you,
18 again, Mr. Roberts, is that when you came to apply the
19 increase which was authorized by the Board of 17 per
20 cent, you were able to put it on the traffic which is
21 shown on this statement as "all other freight traffic",
22 and which I have described as "traffic moving at class
23 rates and commodity rates, non-competitive commodity
24 rates", you were able to apply the 17 per cent increase
25 completely on that traffic?

26 A. Completely, Mr. Frawley, but with the
27 exception that we anticipated and knew that there would
28 be some attrition and erosion in that traffic, so that
29 the yield, rather than being the full 17 per cent, full
30 100 per cent, we estimated it would be only 80 per cent.



1
2 Q. Yes, but there were no, subject to the
3 fact that you might have to put some of that increase
4 into competitive rates, or maybe make agreed charges
5 with respect to it, other than that you were able to
6 put on the horizontal percentage increase of 17 per
7 cent completely?

8 A. Well, the provision was made for the
9 move of some of the traffic to competitive rates and
10 agreed charges by reason of our estimating a yield of
11 only 80 per cent.

12 Q. Now, just let us understand you. The
13 percentage of the total adds up to 100 per cent, meaning
14 the whole \$31½ million you needed for the wage award?

15 A. That is correct, sir.

16 Q. As to that 100 per cent, it is made up
17 as follows: first, you were going to get one million
18 four, or 4½ per cent from the coal and coke traffic?

19 A. That is correct.

20 Q. And you were going to get five million
21 five, or 17½ per cent from the competitive rates?

22 A. That is right.

23 Q. You were going to get half a million
24 dollars, or 1 3/4 per cent from the agreed charges?

25 A. Correct.

26 Q. But you were going to get \$23 million
27 out of the required \$31½ million; you were going to
28 get \$23 million or 73½ per cent from the class rates
29 and the non-competitive commodity rates?

30 A. That is right. Out of \$152 million



1
2 worth of traffic.

3 Q. Yes, that is right, and you were getting
4 nothing out of the grain moving at statutory rates?

5 A. No, sir.

6 Q. And you were getting nothing out of the
7 international rates?

8 A. Because, as the statement shows, the
9 U.S. increases apply to that.

10 Q. That being so, you were required by
11 virtue of this horizontal increase to which you have
12 committed yourself, you were required to apply it very
13 unevenly?

14 A. We did not apply it unevenly, Mr.Frawley.
15 We applied it to all rates, and then had to make adjust-
16 ments where we found it necessary.

17 Q. You did not apply it to all rates; you
18 did not apply one bit of it to the statutory rates on
19 grain?

20 A. No, sir. We cannot, under law.

21 Q. And you did not apply one bit of it to
22 the international rates?

23 A. Correct, because they take the U.S. in-
24 creases.

25 Q. I do not mind you saying it each time.
26 I think everyone understands that. You did not apply
27 any of it on the international rates; you applied 75
28 per cent of it to the class rates and the non-com-
29 petitive commodity rates?

30 A. We obtained -- we estimated we would



1
2 obtain from \$152 million worth of traffic moving at
3 class rates and normal commodity rates, we estimated
4 we would obtain \$23 million.

5 Q. And do you think that a percentage in-
6 crease method, or an increase method, an increase
7 method which has to be, on your own exhibit -- this,
8 after all, is basically your exhibit?

9 A. Yes, sir.

10 Q. That a percentage of increase method,
11 which, on the face of your own exhibit, can only be
12 applied in the fashion which this exhibit indicates,
13 I put it to you is a completely unsatisfactory method
14 of increasing freight rates?

15 A. No, sir, I do not think that at all.
16 We apply it equitably and obtain additional revenue
17 wherever we can.

18 THE CHAIRMAN: We have both your views.

19 MR. FRAWLEY: Yes, Mr. Chairman.

20 Q. Now, will you look at my Exhibit 81-A.
21 I would like to show you how it works out in some
22 specific instances.

23 Now, that is a rate statement which I would
24 like to call your attention to, and I start off on
25 page 1 with the ferro-alloys, and I put it to you, Mr.
26 Roberts -- and I am putting this to you from the stand-
27 point of the distortion in the freight rate structure
28 and how it works out in specific instances -- in the
29 case of ferro-alloys you have an agreed charge to
30 Vancouver of \$1.27?



1
2 A. That is correct.

3 Q. And on the same ferro-alloys that a steel
4 mill in Edmonton or Calgary would have to import from
5 eastern Canada, that comes in on a combination rate.
6 It comes in on a combination of that agreed charge 109,
7 plus either the class rate or the commodity rate back-
8 haul from Vancouver?

9 A. That is correct, according to this
10 statement.

11 Q. All right, fine. So that the Vancouver
12 receiver of ferro-alloys from Welland, Ontario, pays
13 \$1.27; Edmonton receiver of the ferro-alloys from
14 Welland pays \$2.82?

15 A. That is correct, sir.

16 Q. And we will put aside the discrimination
17 which is there now: \$2.82 against \$1.27, although the
18 haul is 700 miles -- 641 miles in your case -- shorter.
19 And, putting that aside for the moment, but having
20 received from the Board of Transport Commissioners an
21 authorization for a 17 per cent increase, you increase
22 the rate to Edmonton by 17 per cent, and you do not
23 increase the rate to Vancouver of \$1.27 at all?
24 Is that not the fact?

25 A. Not in so far as the application of the
26 agreed charge to Vancouver in the combination is con-
27 cerned; it has not been increased. Now, to what
28 extent the item 5204 of W975 was increased, well, then,
29 the charges to Edmonton, Calgary were increased to that
30 extent.



1
2 Q. To be perfectly fair, I am giving you
3 the \$2.82, and that is the rate as of September 28,
4 1960. So, of course, the increases are all in there;
5 but, we understand each other well enough that you know
6 what I am talking about. Whatever that rate to Edmonton
7 was, that \$2.82 ---

8 A. That is right.

9 Q. --- it would be increased by some part
10 of the 17 per cent; in any event, you say the back haul
11 portion?

12 A. That is right.

13 Q. But the \$1.27 to Vancouver, because it
14 is a contract rate, that, of course, could not be in-
15 creased?

16 A. Unless under negotiation with the signa-
17 tories, Mr. Frawley, and subject to the competitive
18 conditions that exist at this particular time.

19 Q. Well, as a matter of fact, from this
20 record of all agreed charges that I have here, which
21 is Exhibit 149, I put it to you that that agreed charge
22 was entered into in 1955; it is a 100 per cent agreed
23 charge, and the rate is \$1.27. It was originally
24 \$1.20, and you made an increase in 1957. So, if that
25 tells the whole story, and I am just taking it from
26 this statement 149, then in that case you just had
27 to content yourself to letting the agreed charge
28 rate to Vancouver remain as it is?

29 A. If in our negotiations with the signa-
30 tories we found that the competition was exactly the



1
2 same, Mr. Frawley, that rate is making a contribution,
3 I do not think we should get rid of it.

4 Q. Well, now, just let me pick you up on
5 that. The rate to Edmonton at \$2.82, that is making
6 a much greater contribution?

7 A. That is true, sir.

8 Q. But still you put the 17 per cent, or
9 as much of it as you can on this rate that is making
10 a great big contribution, but you do not put anything
11 on the rate that, I suggest to you, is making a much
12 smaller contribution; namely, the transcontinental
13 agreed charge?

14 A. Because the conditions are not the
15 same, sir.

16 Q. I realize that. Frankly, Mr. Roberts,
17 I feel sorry for you; you are in a straightjacket; you
18 cannot do anything about it. But, I say that is
19 distortion in the freight rate structure.

20 All right, let us go to something else, now.

21 Now, we turn over to page 2 and take under
22 Compounds at the bottom, motor fuel anti-knock com-
23 pound, commonly known as ethyl fluid -- tetraethyl
24 lead fluid -- that goes out to Vancouver under agreed
25 charge 110 from Sarnia at \$2.67, and it moves to the
26 refineries in Edmonton -- and there are refineries in
27 Edmonton, of course?

28 A. That is right.

29 Q. And in Calgary?

30 A. Yes.



1
2 Q. And other places there? And that goes
3 out for \$3.83?

4 A. That is right.

5 Q. And, again, because that is not an
6 agreed charge but a commodity rate C.F.A. 5-J, what
7 is the situation here? You get an authorized increase
8 of 17 per cent; you put it all on the rate to Edmonton,
9 the \$3.83, but you do not put it on the \$2.67 to
10 Vancouver because that is a contract rate. That is
11 the situation?

12 A. To the extent, Mr. Frawley, that the
13 combination over Winnipeg, the factor making it up,
14 receives the 17 per cent. That is a Winnipeg combina-
15 tion, again, and your factor from Winnipeg to Edmonton,
16 I think, is the incentive rate item which did not
17 have the 17 per cent applied to it.

18 Q. The Calgary rate or the Edmonton rate
19 of \$3.83 -- it is the same to Calgary and Edmonton --
20 what do you say about that?

21 A. You see, that is a Winnipeg combination.
22 It is a rate to Winnipeg, plus a factor beyond.

23 Q. Yes?

24 A. And the factor beyond is in item 5201
25 of our Tariff W975, and I think you will find that the
26 17 per cent increase is not in that range as of now.

27 Q. Just a minute. Is that an incentive
28 rate?

29 A. I think so, sir.

30 Q. Oh, I see. Well, that W975; that



1
2 contains a lot of commodity rates; doesn't it?

3 A. It is our commodity tariff in western
4 Canada. It contains both normal commodity rates and
5 competitive rates.

6 Q. And it contains truck competitive rates?

7 A. Yes.

8 Q. Starred as such?

9 A. That is right.

10 Q. When you say that if this rate, \$3.83,
11 for this ethyl fluid to Edmonton was in part made up of
12 a truck competitive rate factor, then it would not take
13 the 17 per cent increase for the reasons that you
14 and I have been just discussing a few minutes ago?

15 A. In this particular instance, I do not
16 think the 17 per cent increase applies in connection
17 with the factor from Winnipeg.

18 Q. All right. But the factor from Sarnia
19 to Winnipeg, CFA5J, that took the increase?

20 A. That took the increase, yes.

21 Q. Whatever the amount of the increase.
22 So, you are telling me it was necessarily something
23 less than 17 per cent?

24 A. In respect to the total rate.

25 Q. In so far as looking at the contribution
26 to overhead made by those two rates; one, \$3.83 to
27 Edmonton, and the other one, \$2.67 to Vancouver, the
28 Vancouver rate took no increase because you could not;
29 it was a contract rate, but the rate to Edmonton took
30 as much as you could give it -- at least, the whole of



1
2 the rate, except the part that was competitive took
3 the increase?

4 A. That is correct, and the traffic is
5 still moving.

6 Q. Fine. And you -- what did you say?

7 A. The traffic is still moving.

8 Q. The traffic is still moving, and that is
9 moving because they need anti-knock to give the people
10 of Alberta good gasoline, and for some reason or other
11 they are willing to pay you \$3.83 to get it out there?

12 A. That is correct, and we are also obtain-
13 ing a contribution from the \$2.67 from Vancouver which
14 we would not otherwise.

15 Q. Can you tell me what the comparison
16 between the contribution of \$2.67 is making as against
17 the contribution the \$3.83 is making?

18 A. No, sir.

19 Q. But the \$3.83 is making a much better
20 contribution to overhead?

21 A. I would say it was making a better con-
22 tribution to overhead, yes.

23 Q. You apply this horizontal percentage
24 -- this excellent system you are telling us about --
25 you apply it in one case and cannot apply it in the
26 other?

27 A. We apply it in one case and we cannot
28 apply it in the other; that is just one of the facts
29 of life, Mr. Frawley.

30 Q. That is one of the facts which are part



1
2 and parcel of this distorted discriminatory freight rate
3 system.

4 A. Faced by any business.

5 Q. Faced by this business, and it is the
6 only business at the moment being investigated by
7 the Government of Canada?

8 A. Yes, but it is not peculiar to the rail-
9 ways.

10 Q. Well, there may be others, as we go along.

11 Now, I come to another item, and I am only
12 coming to it because it is on page 5 of my statement,
13 and if it were not there I would not mention it,
14 because we certainly talked about it.

15 If you look at page 5 you will find this
16 at the bottom of the page -- that is where it should be,
17 on the bottom of the page, as far as the Edmonton rates
18 are concerned, in the nether regions. Now, skelp
19 moves to Vancouver for 95 cents?

20 A. That is correct.

21 Q. And it moves under an agreed charge and
22 it moves to Edmonton where it is needed; it is an
23 essential ingredient in the making of gas and oil well
24 pipe?

25 A. That is right.

26 Q. Fine. And Edmonton pays \$1.55; that is
27 the best rate that Edmonton has?

28 A. Yes.

29 Q. And, now, we look up and see what that
30 is, yes. That is not an agreed charge, that is a



1
2 special commodity rate?

3 A. It is.

4 Q. So, again, having received the authoriza-
5 tion of the Board for a 17 per cent freight rate in-
6 crease to pay the wage award, you take none of it from
7 the 95 cents, and you take 100 per cent of it from the
8 \$1.55 that takes the same material to Edmonton?

9 A. That is right. Each rate was put in to
10 meet certain conditions. The one rate was to meet
11 import competition out to the coast, and the rate to
12 Edmonton and Calgary -- Edmonton, primarily -- was put
13 in to meet competition of skelp coming from other
14 sources.

15 Q. There is not any doubt about that, Mr.
16 Roberts, at all. I am talking about what I might call
17 the impossible situation in which you are faced
18 when the Board gives you an authorized increase and
19 you have no better way to apply it than by the
20 horizontal percentage method, and when you have so
21 much of your traffic, as the statement we have been
22 discussing shows -- when you have so much of your
23 traffic shut off from any possibility of being increased,
24 then I say that when you persist in putting in the
25 horizontal percentage increase where it only puts
26 distortion on distortion, that you would stop. As
27 the general traffic manager of the Canadian Pacific
28 Railway, you would stop, and you would say, "This is
29 so patently unfair that we must find some better
30 system."



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2 A. Mr. Frawley, we consider and I consider
3 that the horizontal percentage increase is equitable --

4 Q. You see ---

5 MR. SINCLAIR: Let him finish.

6 MR. FRAWLEY: Q. I will let him finish,
7 certainly I will let him finish. I would always let
8 Mr. Roberts finish, perhaps some others I would quarrel
9 with but you finish, Mr. Roberts.

10 A. We think this is the most equitable way
11 of applying the increase and it applies equally and
12 proportionately to all shippers, because of
13 competitive conditions we cannot obtain the increase in
14 full from some traffic but in other comparable rates
15 we are able to obtain at least a portion of the increase.

16 Q. You see, you won't agree that however
17 meritorious the horizontal percentage increase might
18 have been that now with this distorted freight rate
19 structure with all these agreed charges coming in just
20 like a blizzard every month where you cannot put in
21 any increases that are authorized, you still hold fast
22 to the validity of the merit of the horizontal
23 percentage method?

24 A. That is right.

25 Q. That, if you do not mind my saying so,
26 is the issue between you and me and it is the issue
27 that this Commission has got to come to grips with.

28 A. It is an issue they will consider.

29 Q. Just one more and I will quit. This
30 is a case of examples and on page 86 of my statement



1
2 81A you will find "wire, rope and strand" and there
3 we find that you have a rate under an agreed charge
4 to Vancouver of \$1.40. I know why that is so and we
5 do not have to go into that because it is there and it
6 is the best rate you could get and it is just fine.
7 I have no desire in the world to take that away from
8 the people of Vancouver because it is there and it is
9 \$1.40. However, my people in Edmonton pay \$2.95 for
10 the same wire, rope and strand. As if that was not
11 bad enough, as if the contribution to overhead was
12 not sufficiently obvious, you come along with a 17%
13 increase which you have just received from the Board
14 and you say to the \$2.95 rate "100% of that 17% goes
15 on there"?

16 A. We obtain what we can from every rate.

17 Q. And then when you come to the \$1.40,
18 however much it might grieve you, you say, "I cannot
19 do anything about that \$1.40 because that is a contract
20 rate"?

21 A. After having examined the competitive
22 conditions under which the contract was entered.

23 Q. You do not examine anything, you look
24 at it and say that it is an agreed charge and you
25 cannot do anything about it.

26 A. We negotiate for agreed charges and
27 contracts.

28 Q. Suppose that rate was at \$1.40 at the
29 time you got your increase, you do not waste any time
30 looking at those agreed charges, that is, they are in



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2 force as of the date the increase is authorized.

3 A. How do you mean "waste any time"?

4 Q. You know you cannot put it on, you
5 cannot stop them and renegotiate?

6 A. No, it is not put in as of the effective
7 date of the increase but the negotiations continue
8 after that towards getting an increase if it is
9 possible.

10 Q. That is right. Now, just looking at
11 the record and we find by looking at this statement
12 149 -- I was wondering if I was just wasting time in
13 having this prepared as to whether it would be of any
14 value but I think it will be now of value -- if you
15 look at the complete record of agreed charges you will
16 find that agreed charge 131 that went in in 1955. That
17 is on page 11. You see the agreed charge 131, iron
18 and steel articles, wire rope and wire strand from
19 various Ontario origins to Vancouver and the date is
20 28/7/55 -- I suppose that is July 28 -- that is 100%.
21 That was a good agreed charge and its destination is
22 in Vancouver. Now, it started out at \$1.30?

23 A. That is right.

24 Q. And in 1957 on the 28 of May you brought
25 it up to \$1.40.

26 A. That is correct, we were able to
27 negotiate an increase.

28 Q. That was a good effort, you got that
29 up 10¢. However, when you got that last increase in
30 1958, you could not touch it at all, it was \$1.40 and



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2 it is \$1.40. I am calling your attention to page 61
3 of exhibit 81A. That confirms what I have -- you are
4 ready to agree with me that you could not do anything
5 at all about the \$1.40, you had to leave it as it is
6 making its contribution as much as it is. However,
7 you went to the \$2.95 in Edmonton and put that up by
8 17%?

9 A. That is correct. That was the situation
10 as of December 1st, 1958. I am quite sure that that
11 agreed charge is included with all other agreed charges
12 in which negotiations have been or will take place
13 towards getting an increase.

14 Q. Well, that may be. Your statement is of
15 May 24, 1960, and I did file an addendum the other
16 day but at least since 1955 up to date you have been
17 able to -- if you have something more recent let me
18 know?

19 A. No.

20 Q. Since 1955 to date in five years you
21 have been able to get a 10% increase in the agreed
22 charge to Vancouver and you say that that shows the
23 strength of the competition.

24 A. That is right.

25 Q. But my complaint is that you are
26 necessarily, because of the discrimination of this
27 freight rate structure, you are applying your
28 horizontal percentage increase to rates that are
29 making no contribution to overhead and not applying
30 it to rates that are making small contributions to



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2 overhead.

3 A. May I say that if we did not have the
4 contribution from agreed charges like this one we are
5 discussing that the situation would be different, more
6 so than is today in that we require now to get that
7 additional money that the agreed charge is returning
8 to us.

9 Q. I suppose that is a matter of arithmetic.
10 Now, Mr. Roberts, you have a little story on page 8
11 about the department store and I was a little troubled
12 about what your point was. I just took a couple of
13 instances to see if I understand what you are saying.
14 Take two things, take the first example of a mark-up
15 of 100% and let us call that a piece of furniture, a
16 chesterfield?

17 A. Yes.

18 Q. And you have a cost of \$100 and a selling
19 price of \$200, a mark-up of 100%?

20 A. Yes.

21 Q. And take something else that could only
22 stand a mark-up of 50%, let us take something in the
23 clothing department, say, an overcoat.

24 MR. SINCLAIR: That costs \$100?

25 MR. FRAWLEY: Yes, and the selling price is
26 \$150 with a mark-up of 50%.

27 A. Yes.

28 Q. The wages increase and that requires a
29 price increase. Let us assume wages increased 20% and
30 that requires a price increase of 20%?



1
2 A. Yes.

3 Q. Then the price of the chesterfield is
4 increased from \$200 to \$240?

5 A. That is right.

6 Q. And the price of the overcoat is
7 increased from \$150 to \$170.

8 A. \$180.

9 Q. Now, that is the arithmetic behind us.
10 Now, you putting to the Commission that you do not
11 think there will be as much sales resistance generated
12 from the increase from \$200 to \$240 as there will be
13 from \$150 to \$180.

14 A. It depends upon a demand, Mr. Frawley?

15 Q. The elasticity of the demand that we
16 were talking about before?

17 A. That is reflected in the original price.

18 Q. I do not want to know why you went into
19 this question about the ability to take a price increase.
20 I would suggest that the person going in to buy the
21 chesterfield and finding the price has gone up from
22 \$200 to \$240 will have just as much sales resistance
23 as a person going in and finding the overcoat was
24 up from \$150 to \$180.

25 A. Well, of course, the fellow going in
26 to buy the chesterfield would look at the price and
27 see it is \$200. He might have some sale resistance
28 but he needs the chesterfield and so he buys it. I
29 think the answer applies also to the \$240.

30 Q. Yes, and if he put off the purchase and



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2 came back six months after and found it had gone from
3 \$200 to \$240 he would have just as much sales resistance
4 as the man who put off buying the overcoat and found
5 in the interval it had gone up from \$150 to \$180.

6 A. We are facing things like this in the
7 department stores ---

8 Q. The Canadian Pacific has not started
9 operating, department stores?

10 A. No, sir.

11 Q. Well, they have a little of everything
12 else and I just wondered. Let us get on and turn to
13 page 12 and you say there at the bottom of the first
14 paragraph very boldly and courageously that if an
15 agreed charge is not making a contribution to constant
16 costs then it is terminated.

17 A. That is right. Well, it should not be
18 there at all if it is not making a contribution.

19 Q. Well, it was there and then conditions
20 change.

21 A. That was the situation.

22 Q. And when you discover this it ceases.
23 I do not want to improve on this language which you
24 wrote and which I am sure my friend, Mr. Sinclair, went
25 over with a fine tooth comb but, in any event, you say
26 that if it ceases to make a contribution to overhead
27 then you terminate it.

28 A. That is right, sir, unless we can get
29 an increase in the contract.

30 Q. Yes, but if you have a sales resistant



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2 shipper you just terminate it?

3 A. That is right, sir.

4 Q. And one instance you could tell the
5 Commission about was that you did something about
6 agreed charges on fuel oil in Southern Saskatchewan in
7 1960?

8 A. Crude oil from places like Midale,
9 Weyburn in Saskatchewan to Fort William.

10 Q. What are you doing moving crude oil in
11 Western Canada?

12 A. What are we doing? We started out to
13 make a dollar by moving it under this agreed charge.

14 Q. You started kind of late to moving it.

15 A. No, we just moved a lot of crude oil
16 under competitive rates.

17 Q. Why did you not build the pipeline in
18 the first place instead of letting the Americans do
19 it?

20 A. That is something outside my province.

21 Q. You have a pretty big province, you
22 have the whole department. Now, looking at agreed
23 charge 57, and that is an agreed charge that is worth
24 looking at from the standpoint of what you can do or
25 cannot do or should do. That is the agreed charge that
26 carries cast iron pipes from Toronto and some from
27 Trois Rivieres to British Columbia and you have 100%
28 of that business so you must think that is good
29 business. You have 100% of that business, have you
30 not?



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A. Yes, sir.

Q. Under agreed charge No. 57, you made that agreed charge in 1953, and you have not been able to make one cent increase in it since then?

A. That is right.

Q. There have been a lot of increases in cost, have there not, since 1953? 1953, that is eight years old, that agreement?

A. Yes.

Q. But you are still carrying 100% on it and it has not been terminated?

A. We are.

Q. And do you know what amount of contribution to overhead it is making?

A. No, sir.

Q. Well, I was curious enough and I took it out -- that is exhibit 161 now. That is an agreed charge where you get \$1.18 for what you haul from Trois Rivières and \$1.10 for what you haul from Toronto and your out-of-pocket costs from Trois Rivières are 82½¢?

A. Right.

Q. So you have a difference there of 35½¢?

A. Yes.

Q. I put it to you that you certainly have not got 35½¢ now?

A. That is right.

Q. Do you think you are getting any contribution to overhead now?

A. Yes, sir.



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2 Q. Why are you able to say "yes sir" so
3 quickly?

4 A. I am quite sure we are getting a
5 contribution to overhead from the revenue that you
6 would obtain from a carload of this material.

7 Q. Let me just ask you something else about
8 this exhibit: you know, of course -- and I am not
9 going to read it again -- you know Mr. Barnstead when
10 he was describing this exhibit on the 9th of November,
11 1953, in the cast iron pipe agreed charge case before
12 the Board of Transport Commissioners said that it had
13 been costed on an incremental basis?

14 A. On an incremental basis?

15 Q. Yes.

16 MR. SINCLAIR: Well ---

17 MR. FRAWLEY: Unless my friend has some very
18 good reason for his "well ----" I would like to pursue
19 this with the witness.

20 MR. SINCLAIR: The factors are in the costs,
21 and what Mr. Barnstead meant by "incremental" is all
22 explained, and if the witness wants to know what it is,
23 I think it is my duty to tell him, and, of course, he
24 has the right to ask my friend, "What do you mean when
25 you say Mr. Barnstead said that it was costed on an
26 incremental basis?"

27 MR. FRAWLEY: Q. Mr. Roberts, at page 16769,
28 coming down to more recent times than 1953 -- that was
29 the other day, on the 13th of October -- I read to Mr.
30 Harries from the transcript when I was showing him that



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2 exhibit, which was exhibit No. 8; that was Mr.
3 Barnstead's exhibit 8 in the cast iron pipe case, and
4 Mr. Spence was examining him, and I will read it again,
5 and only because of Mr. Sinclair's request:

6 "Q. Now, Mr. Barnstead, you will explain
7 Exhibit No. 8. In the first place it is
8 expressed in cents per 100 pounds and it
9 appears to show the relationship between the
10 proposed revenues and the out-of-pocket
11 costs and the proposed revenues and the all-
12 inclusive costs for the movement of this
13 pipe under the agreed charge.

14 'In the first place, in the first line of
15 the figures you have shown the revenue as per
16 proposed agreed charge, which I understand
17 is the rate that is fixed by the agreed charge
18 of \$1.18 from Three Rivers to Vancouver and
19 \$1.10 from Toronto to Vancouver?

20 'A. That is correct.

21 'Q. Yes. Then, the next line is the
22 out-of-pocket costs which are shown as 82½
23 cents from Three rivers to Vancouver and 73.3
24 cents from Toronto to Vancouver. What do
25 you mean by out-of-pockets costs?

26 'A. The out-of-pocket costs are those
27 costs that can be considered to vary directly
28 with traffic moved. In other words, they
29 are the expenses that would be incurred on
30 account of the additional traffic that would



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2 be moved.

3 'Q. And they don't include any
4 allowance for overhead?

5 'A. They do not include any portion of
6 constant costs.

7 'Q. Constant costs?

8 'A. Yes.

9 'Q. They are purely ---

10 'A. The figure that could be considered
11 the cost of the company that would be
12 incurred with this additional traffic, with
13 the movement of cast iron pipe."
14 Now, was I wrong in applying the adjective
15 "incremental"?

16 MR. SINCLAIR: You certainly were.

17 THE WITNESS: I think it is in the same
18 sense.

19 MR. SINCLAIR: Mr. Roberts is not a cost
20 man.

21 THE CHAIRMAN: No.

22 MR. FRAWLEY: But Mr. Roberts purports to
23 be able to say what he thinks about this agreed charge,
24 that it is now making a contribution to overhead. It
25 made 35½¢ in 1953, and he says it is still making a
26 contribution to overhead.

27 Q. I have some other questions to ask you
28 about this. Having heard what Mr. Barnstead said,
29 and having looked at the agreed charge, what is the
30 allowance in there for cost of money?



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A. I do not know.

Q. I put it to you there is nothing in there for cost of money?

A. I do not know what is behind it.

THE CHAIRMAN: He does not know.

THE WITNESS: I do not know what is behind the figures -- the components that went to make up the figures.

MR. FRAWLEY: Q. Maybe it is just some averaging of the out-of-pocket costs -- ton-mile out-of-pocket costs?

A. I do not know.

Q. It could very well be that?

A. This is what you are suggesting; I do not know.

Q. Have you any reason for disagreeing with my suggestion that, first of all, it does not contain anything for cost of money?

A. No.

THE CHAIRMAN: He just does not know.

THE WITNESS: This is not my field. I am not a cost man.

MR. FRAWLEY: Q. Except you ventured to say a few minutes ago you thought this cast iron pipe was still making a contribution to overhead?

A. In evaluating the revenue that would be received from a carload of this pipe, which is in the neighbourhood of \$1,000.

Q. If you thought it was not making a



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2 proper contribution, you would simply ask Mr. Barnstead's
3 office to bring his exhibit 8 up to date?

4 A. After examining the situation, and we
5 are doing that regularly.

6 Q. But you would not be examining it from
7 the cost standpoint. You would ask Mr. Barnstead to
8 do that?

9 A. Yes.

10 Q. And you would expect Mr. Barnstead to
11 let you know pretty expeditiously -- give you a pretty
12 expeditious answer to your question?

13 A. He answers as expeditiously as he can.

14 Q. And he does not take as long as Mr.
15 Stenason took to cost the grain in Western Canada?

16 A. Well, that is a different problem.

17 Q. That is why it is different, because in
18 Mr. Stenason's cost of moving grain there is something
19 there for cost of money. Would you disagree with me
20 if I put to you that Mr. Barnstead seeking to justify
21 the \$1.18 rate from Three Rivers to Vancouver on the
22 cast iron pipe was costing down and Mr. Stenason
23 seeking to justify the Canadian Pacific application to
24 the Government of Canada for a tax concession was
25 costing up?

26 A. I am not going to agree to any such
27 thing like that.

28 Q. I suggest to you it is perfectly obvious
29 that Mr. Barnstead was costing down and endeavouring
30 to show as well as he could that the cost of moving



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2 this pipe to Vancouver was low and that therefore a
3 contribution to overhead was being made, and that Mr.
4 Stenason's job was to show that the Crows Nest rates
5 were not providing any revenue and were not even
6 matching revenues?

7 A. I am not agreeing to that, sir.

8 Q. You are not agreeing that Mr. Barnstead
9 was endeavouring to show the out-of-pocket costs were
10 low?

11 A. He was endeavouring to develop the
12 figures in accordance with the techniques used at that
13 time, I am quite sure, and Mr. Stenason, likewise, was
14 doing the job to the best of his ability.

15 Q. And this is the pipe which, according
16 to the statement exhibit No. 145, is returning seven-
17 tenths of a cent per ton-mile -- seven-tenths of a
18 cent per ton-mile?

19 COMMISSIONER GOBEIL: Mr. Frawley, may I
20 ask you a question?

21 MR. FRAWLEY: Yes.

22 COMMISSIONER GOBEIL: If a third party of
23 consumer products would have doubt as to whether this
24 rate is compensatory or not, would he go to the Board
25 of Transport Commissioners and force them to investigate
26 the rate as to costs?

27 MR. FRAWLEY: I would agree with everything
28 except the word "force". He would ask them to make
29 an investigation, that is right, sir.

30 COMMISSIONER GOBEIL: And they would have to



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2 do it?

3 MR. FRAWLEY: I think so. I have read
4 section 334 many times, and I am always surprised by
5 the fact there are really no sanctions in it; but, that
6 does not matter too much and I think I would agree with
7 you.

8 My friend, Mr. Sinclair, has just mentioned
9 something to me: I was making an answer to you, sir,
10 and I was thinking of this rate as a competitive rate,
11 but this is an agreed charge and now you have to go to
12 the Transport Act and you have to go those weird and
13 wonderful provisions in the Transport Act that tell you
14 if you have any complaint about that rate -- well, my
15 interpretation of the Transport Act is, sir, that if
16 I feel that that particular agreed charge is ceasing
17 to be compensatory, or that for any other reason it
18 should be looked into, I would like you, sir, to be
19 aware of the fact that you have to then look at the
20 provisions in the Transport Act, and the provisions in
21 the Transport Act with respect to agreed charges, thanks
22 to the report of the second Turgeon Commission, when
23 the railways ran away with the Commission ... The
24 second Turgeon Commission started out as an attempt to
25 find out why the one and one-third rule could not be
26 applied to agreed charges. It already applied to
27 competitive rates, but the railways came in and they
28 brought people from England and made out a case they
29 should have much more freedom in the making of agreed
30 charges, and they have got so much freedom now that if



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2 you want to make a complaint against an agreed charge
3 you have to apply to the Governor General in Council and
4 if he feels this particular agreed charge is not in
5 the public interest -- and that is a pretty large
6 expression -- if he feels that it is not in the public
7 interest, then he may send it to the Board of Transport
8 Commissioners to investigate, and then, if you get that
9 far, if you get by the Governor General in Council --
10 and I tried once on the piggy back agreed charge, and
11 I was told in solemn language in an order in council
12 that it was not considered to be contrary to public
13 policy or in the public interest, and I do not know
14 of one instance yet where the Board has investigated
15 an agreed charge, even an eight year old one that has
16 not changed in the interim. However, in any event,
17 in answer to the question, you do not have the facility
18 that you have under section 334 if it were merely a
19 competitive rate.

20 MR. SINCLAIR: Mr. Commissioner Gobeil and
21 Mr. Chairman and members of the Commission, as to the
22 last statement that you do not have the facility that
23 you have under section 334 to challenge an agreed
24 charge as being non-compensatory, I would agree.
25 However, in regard to your question, sir, it would be
26 my interpretation of the Transport Act that in the
27 light of section 32(6) that these agreed charges shall
28 categorically -- it is used categorically -- an agreed
29 charge shall be made on the established basis of rate
30 making, that requires the rate under our jurisprudence



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2 to be compensatory, and also subsection 3 of section
3 33 requires the railways, if an enquiry is ordered by
4 the Governor in Council, to show the effect that it is
5 likely to have on the net revenue of the carriers who
6 are parties to it.

7 So, in my interpretation of the law, sir,
8 not only must the rate be compensatory but the railways
9 have to stand the test of showing the effect on the
10 net revenues, and I say that puts on them the burden of
11 showing they are maximizing their net revenues from
12 the movement of the traffic.

13 MR. FRAWLEY: So the record will be complete
14 at this point, Mr. Chairman, I differ entirely in my
15 interpretation of the meaning of the words "on the
16 established basis of rate making" in subsection 6 of
17 section 32 of the Transport Act. I say that means no
18 more than that in making an agreed charge they shall
19 follow the technical and rate making procedures laid
20 down in the Railway Act as are laid down for the making
21 of ordinary published rates, and if it meant any more
22 than that -- if it meant all that my friend said --
23 why in section 33 would parliament have said, "where
24 an agreed charge has been in effect for at least
25 three months any carrier or association of carriers,
26 or any association or other body representative of the
27 shippers of any locality" -- you are restricted again,
28 sir.

29 So that my clients, the Government of the
30 Province of Alberta or the Alberta freight bureau



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2 could certainly not, in my respectful submission make
3 any protest at all.

4 MR. SINCLAIR: Well, Mr. Frawley, you have
5 always said you represented not only just a group or
6 an association, but that you represented all the
7 people of Alberta, all the shippers of Alberta, and I
8 disagreed that you represented all the people of
9 Alberta on many occasions, but I certainly do not
10 think you are going to suggest to this Commission that
11 you have not got the right to make an application.
12 Indeed, you have made them -- you have just said so.

13 MR. FRAWLEY: Yes, and I was astute enough
14 when I made the application to join with a trucking
15 company, because then the trucking company came in
16 under subsection (a), and it was for the very reason
17 I would be quickly told I had no status that I allied
18 myself under (a).

19 My friend tells me what I am and what I
20 pretend to be. I do not pretend to be an association
21 or a body representative of the shipper. I represent
22 the Government of Alberta which represents all the
23 people in Alberta.

24 MR. SINCLAIR: So that this may be shortened
25 up, the position of Canadian Pacific -- and if we have not
26 made it clear, I hope we are able to do so -- and it
27 may be my friend and I think this is a point he should
28 have clarified, and he can put it to this witness or
29 to Mr. Edsforth -- the position of Canadian Pacific
30 is this -- and I have not, perhaps, made this as clear



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2 as I might have done, because it is not the time to
3 put all the position of the company before you -- the
4 position of Canadian Pacific is this -- I am instructed
5 to say this to the Commission -- that we have no
6 objection whatsoever to have spelled out, if that is felt
7 to be necessary and desirous, any rate whether it be a
8 normal rate or competitive rate or agreed charge rate;
9 that we must show the Board periodically that these
10 rates are meeting variable costs and something more.
11 Now, we would, of course, expect that the Board -- and
12 we should have made our position clear by saying
13 that information would be kept highly confidential by
14 the Board -- and we would also expect the Board not to
15 ask us to do costing in all the myriads of movements
16 when by certain bench marks, certain tests that we have,
17 it would appear that the rate is certainly not suspect.
18 But, we would be prepared to do this. We have always
19 taken the position, sir. -- and I have done it in this
20 room many times -- that we are prepared to show the
21 regulatory authority on a confidential basis what we
22 do and how we do it as the result, and if it is
23 necessary to have it spelled out, to have it clear,
24 that there is any dispute as to whether it can or
25 cannot be done now, this is our position.

26 MR. FRAWLEY: I am sorry, Mr. Chairman, that I
27 brought all that on. All my friend is saying is that
28 the second Turgeon Commission went too far.

29 Now, if I may just have a minute, sir, to
30 complete the answer to the question of Commissioner



1
2 Gobeil, I was telling Mr. Commissioner Gobeil that
3 if you felt you would like to complain against an
4 agreed charge, you may go to the Minister or the
5 Governor General in Council to complain -- these
6 people I have just mentioned can do that -- shippers
7 or carriers -- ~~that~~ the agreed charge is unjustly
8 discriminatory against a carrier or shipper, or places
9 his business at an unfair advantage, and the Minister
10 may, if he is satisfied it is in the public interest,
11 refer it to the Board for investigation.

12 I am sorry that we found it necessary to
13 get into an interpretation of these sections.

14
15 --- Luncheon adjournment ---
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1 -- On resuming at 2:00 p.m.

2 THE CHAIRMAN: Order, please.

3 MR. FRAWLEY: Q. I was asking you before
4 we adjourned at noon about some rates, and particularly
5 I was asking you about the rates on cast iron pipe which
6 moves to Vancouver under agreed charge 57. I want
7 to ask you to look at two or three more of that sort
8 with me. Would you mind providing yourself with a
9 copy of Exhibit 145. There was a revised Exhibit
10 145, but I think that would be the one you have?

11 A. Yes, sir.

12 Q. If you will just run through them with
13 me. I am only going to call your attention to a very
14 few rates there.

15 Would you look at page 4, the second rate.
16 Apparently you are moving propane from Edmonton to
17 Waterways at a rate which returns you 6/10ths of
18 a cent per ton mile.

19 MR. SINCLAIR: You mean you being the rail-
20 ways or you being the Canadian Pacific?

21 MR. FRAWLEY: You being -- yes, that is
22 right. I don't suppose that you -- yes, you would
23 move it to Waterways.

24 THE WITNESS: On the Northern Alberta
25 Railways.

26 Q. You are 50 per cent NAR?

27 A. That is correct.

28 Q. I thought my friend had me on the
29 Canadian National rate there.

30 MR. SINCLAIR: It moves on Northern Alberta.



1
2 MR. FRAWLEY: Well, Northern Alberta. That
3 is C.P.-C.N. That is a perfect example of the C.P.-
4 C.N. Act.

5 MR. SINCLAIR: This is a favour we did for
6 the province of Alberta.

7 MR. FRAWLEY: I was going to say so, but I
8 am awfully glad you said that. The Canadian Press
9 cannot say that I said it.

10 Q. Now, having got that out of the way, you
11 are moving propane from Edmonton to Waterways at 6/10ths
12 of a cent per ton mile. Do you think you are getting
13 full variable cost out of that?

14 A. Yes, sir. I am quite sure that the
15 costs were examined before a rate like that was estab-
16 lished, Mr. Frawley.

17 Q. They were not just examined by taking a
18 look at the bench marks?

19 A. No, sir.

20 Q. Something better was done?

21 A. I would imagine that things like this,
22 rates at this level would be carried finer. That is
23 right, Mr. Frawley, we would examine it more closely.

24 Q. Who is "we"? You and Mr. Barnstead?

25 A. No, sir, the freight traffic officers in
26 western Canada who publish the rate.

27 Q. Then, it would abide in the freight
28 traffic department?

29 A. In conjunction with the research depart-
30 ment.



1
2 Q. Is that the full research department,
3 the Myers-Stenason technique, or just the Barnstead
4 technique of taking a look at what it would cost to
5 move that traffic?

6 A. The Department of Research which is
7 headed by Mr. Barnstead.

8 Q. He is the head?

9 A. Of the research department.

10 Q. We have heard so little about him; I
11 was wondering if he was still the head of the research
12 department. He is, apparently?

13 A. Yes, sir.

14 Q. All I am putting to you about this propane
15 rate -- and I hope you have lots of it moving -- I put
16 it to you you are not getting the full variable costs
17 if you took in the cost of money?

18 A. Sir, I am not going to get involved with
19 you on costing technique.

20 Q. But, just by doing the rule of thumb
21 method of costing, you would say that you are getting
22 your variable costs as you determine them?

23 A. As I said to you, Mr. Frawley, I am
24 quite sure that the freight traffic officers of the
25 Canadian National and Canadian Pacific in western
26 Canada, in conjunction with the research departments,
27 would examine all of these details before the rate
28 was established.

29 Q. And you say that because of that the
30 rate on propane from Edmonton to Waterways is returning



1
2 full out of pocket cost, plus some contribution to
3 overhead?

4 A. Yes.

5 Q. I am putting it to you that they are
6 getting the out of pocket costs, being the costs that
7 can be considered to vary directly with the traffic
8 moved; in other words, the expenses incurred on account
9 of the additional traffic that would be moved, I put
10 it to you that only on that basis could you say that
11 the propane moving from Edmonton to Waterways is
12 returning your variable costs. You do not disagree
13 with that?

14 A. I say that the research departments
15 of the railways costed this segment of traffic.
16 Now, what is in there, Mr. Frawley, I do not know.

17 Q. Mr. Roberts, I am only looking for
18 information, and perhaps you have not inquired, but
19 if you have not inquired, then, with all respect, I do
20 not think you can be quite so dogmatic in your answer.

21 Can you tell me assuredly that there is an
22 expense called cost of money in any costing that you
23 have done to determine that propane returns full variable,
24 plus a contribution to overhead?

25 A. I have not done the costing, sir, so I
26 do not know.

27 Q. Would you look at page 7, and those are
28 the agricultural implements from North Portal to
29 Edmonton, and you see there that my people in Edmonton
30 have broken that out, and they show for that part of



1
2 the movement, and I take it it is easily ascertainable
3 from CW-449-L -- they have determined that is \$1.52?

4 A. Yes, sir.

5 Q. And I am told it is not quite up to date,
6 that you have to deduct 3 cents as of May 6, 1960, the
7 second roll back, making \$1.49?

8 A. Well, then, this, sir, is not the proper
9 rate that the railway receives.

10 Q. The \$1.49?

11 A. No.

12 Q. No, you are quite right. Thank you very
13 much. These rates, as the heading shows on the first
14 page, do not include a reduction under the Maritime
15 Freight Rates Act or the bridge subsidy, and I hope,
16 also, or under the Freight Rates Reduction Act.

17 All right. So, then, you get \$1.52 to
18 bring that farm machinery 642 miles from North Portal
19 to Edmonton, which gives you a ton mile earning of
20 4-7/10ths of a cent per ton mile and a car mile
21 earning of 57 cents. In other words, that is the
22 full class rate?

23 A. Yes, sir.

24 Q. That is the full class rate. Can
25 you tell me how many times out of pocket cost that
26 rate is?

27 A. No, sir.

28 Q. Several times out of pocket cost, I
29 would suppose?

30 A. It would be well above out of pocket cost.



1
2 Q. Will you look on the same page to the
3 steel sink cabinets, being also an importation from
4 Canton, Ohio, moving from North Portal to Edmonton at
5 a rate of \$2.60, and ton mile earning there of 8.287
6 cents.

7 That would be pretty good ton mile earning;
8 wouldn't it?

9 A. That is a pretty good ton mile earning.
10 Of course, there is only 14000 pounds in the car.

11 Q. Yes. That would be as good a ton mile
12 earning as you would have.

13 A. It is a good ton mile earning, yes.

14 Q. I wonder what you are trying to do there?
15 Are you trying to favour the local manufacturing, the
16 Canadian manufacturing of steel sink cabinets against
17 the United States import by having them pay the full
18 class rate on these American imports?

19 A. Well, these are the rates that are pub-
20 lished in the tariffs, Mr. Frawley. There is no
21 question of favouritism, or anything like that.

22 Q. No question of favouritism; you make
23 them pay the full class rate?

24 A. That is right.

25 Q. Perhaps here is something I will ask
26 you. Do you make similar movements from Brantford,
27 Hamilton, Toronto, Montreal -- wherever these things
28 might be assembled or built in Canada -- do you make
29 them pay the full class rate?

30 A. I don't know offhand what the basis of



1
2 rates are published in Canada on the steel sink cabinets.

3 Q. Well, I don't either. If it turns out
4 that it is some sort of an exception rate, something
5 else other than a class rate, would you perhaps say
6 why you choose to assess the full class rate on the
7 American import and not on the Canadian manufacturer?

8 A. Well, this is, of course, hypothetical.
9 I do not know what we have published, but there may be
10 lower rates due to truck competition from eastern
11 Canada. I cannot say offhand.

12 Q. Well, if there were lower truck rates
13 from eastern Canada, why wouldn't there be the same
14 truck rate from North Portal?

15 A. It does not necessarily apply.

16 Q. Going back to farm machinery there, just
17 two lines above, I suppose you know offhand, or maybe
18 Mr. Miller can tell you, what do you move farm
19 machinery from Hamilton to Edmonton at? What kind
20 of rates?

21 A. Column 40.

22 Q. And what is this column?

23 A. This would be column 40 also.

24 Q. In other words, there is no difference
25 there?

26 A. No.

27 Q. The farm machinery out of Hamilton is
28 paying no less on any basis -- ton mile, car mile, or
29 published rate -- than the imports that come through
30 North Portal, Saskatchewan?



1
2 A. That is right, relatively.

3 Q. Well, relatively. You mean allowing
4 for mileage?

5 A. That is right, sir.

6 Q. All right.

7 Now, will you look at page 8. There is just
8 one on page 8 that I want to ask you about. That is
9 iron and steel ingots moving from Hamilton to Sydney,
10 Nova Scotia. You are getting about 8/10ths of a
11 cent a ton mile there?

12 A. Well, the Canadian National are there,
13 Mr. Frawley.

14 Q. Yes. And you would not like to say
15 whether that is returning full out of pocket costs
16 plus?

17 A. That would be up to the Canadian National
18 to answer, sir.

19 Q. Do you keep a check on them from the
20 cost standpoint?

21 A. From the cost?

22 Q. Yes. If you thought, for instance,
23 that they were, by charging that rate of \$12 a long
24 ton, that they were not getting, in your view, full
25 variable, have you any way of checking that?

26 A. Well, we could measure it against our
27 own costs, Mr. Frawley, yes.

28 Q. I suppose you do a certain amount of
29 watchdog work in that way?
30



1
2 A. Well, we watch what rates are published
3 in the tariff, yes.

4 Q. That is all I think I want to ask you
5 on that exhibit, Mr. Roberts.

6 Mr. Brazier yesterday was showing you a sheet
7 from the Canadian National Tariff No. W950 which
8 publishes the incentive rates between Calgary and
9 Edmonton. You saw that yesterday, I think?

10 A. Yes.

11 Q. Well, now, there is a rate there of 30
12 cents for traffic loaded in boxcars with a 24000-pound
13 minimum. You publish the same rates; don't you?

14 A. That is right.

15 Q. Can you tell me whether or not the full
16 variable -- I assume that those rates return variable
17 costs plus some contribution to overhead?

18 A. Yes, sir.

19 Q. And can you tell me whether or not this
20 is full variable in the sense that it contains as an
21 expense something for the cost of money?

22 A. I would say yes, sir.

23 Q. In this case you ---

24 A. I would say yes. These are normal things
25 to include in cost figures. I do not know exactly all
26 of the components that go into costing, Mr. Frawley.

27 Q. You say they are normal things to include.
28 What I was wondering -- is there a degree of certainty
29 or uncertainty in your mind? You are not able to say
30 whether or not some of these other variables that I



1
2 brought to your attention contained an item for cost of
3 money?

4 A. Well, you went back to Mr. Barnstead's
5 exhibit in 1953, sir. Now, I said I did not know about
6 that one.

7 Q. I see. But you feel as of 1960, and
8 these rates having come into force -- when did these
9 incentive rates come in?

10 A. April 8th, I think it was, 1957.

11 Q. Yes. In any event you feel now that
12 with the more recently developed costing methods that
13 there is something now in the costing job that you did
14 for the 30-cent rate between Calgary and Edmonton --
15 there is something there for cost of money?

16 A. I would say that the costing techniques
17 are being refined all the time, Mr. Frawley.

18 Q. Oh, yes, they certainly were refined when
19 they got to costing the Crow's Nest grain rates.

20 MR. SINCLAIR: I think, Mr. Chairman, I
21 must intervene here. The witness has said he is not
22 a cost man. He has said that over and over again. My
23 friend also knows that in the coal rates that
24 antedated these rates by quite a period his clients then
25 and my client had many, many discussions and this whole
26 question of cost of money was fought out as hard as
27 we could fight it out at that time, and it was included
28 as an element.

29 THE CHAIRMAN: Well, this witness says he
30 doesn't know.



1
2 MR. SINCLAIR: And that was away before 1957
3 or 1956 or 1955 or 1954. It gets back, if my recollec-
4 tion is right, to about 1951.

5 MR. FRAWLEY: What rate are you talking
6 about?

7 MR. SINCLAIR: It is the rate between certain
8 shippers that you were asking for as to the cost levels
9 on the movement of coal.

10 MR. FRAWLEY: Of coal, certainly. I didn't
11 hear you say coal. That was when Mr. Ford K. Edwards
12 came up and made some submission. Oh, yes. I am quite
13 well aware of the cost that was in there. The cost
14 that first went in; the cost that was put in a brief
15 filed with the Board of Transport Commissioners was
16 4.25 per cent, and the exhibit very plainly said that
17 was because when you looked at the requirements formula
18 it worked out at 4.25 per cent. That was the cost of
19 money that was put in.

20 THE CHAIRMAN: I have no doubt we will have
21 more on that ---

22 MR. FRAWLEY: Well, Mr. Chairman, I am just
23 trying to be fair. I am always trying to be fair -- and
24 you can sit down now that you know I am going to be fair,
25 Mr. Sinclair.

26 Later on, when Mr. Parr got into a discussion
27 with the railways about the 4.25 per cent, and some
28 question was raised about that, then Mr. Barnstead, the
29 same Mr. Barnstead, advised Mr. Parr that it was not
30 going to be four and a quarter, it was going to be



1
2 six and a half per cent. In the face of objection,
3 they were just going to make it six and a half per
4 cent that they would give us.

5 It was before the Board, yes, but it petered
6 out as a result of the cost study which Mr. Barnstead
7 made, with a certain amount of supervision from Mr. Parr,
8 and Mr. Parr protested against that kind of rate for
9 cost of money. The Canadian Pacific said, "If you
10 don't like $4\frac{1}{4}$; it is going to be $6\frac{1}{2}$."

11 MR. SINCLAIR: I think the important thing,
12 Mr. Chairman, if you want to be fair, is that Alberta
13 at this time were able to agree with the Canadian Pacific
14 on a costing technique and to arrive at a figure which
15 included an element for the cost of money.

16 THE CHAIRMAN: Well, we will hear much more
17 about this subject again.

18 MR. FRAWLEY: Q. Now, Mr. Roberts, would
19 you please turn to page 13. Now, you make the point
20 there that captive traffic does not exist. I mean,
21 by paraphrasing what you say, that is it?

22 A. That is correct, sir.

23 Q. Captive traffic does not exist. What
24 do you think about brick trying to get into Hamilton
25 from Medicine Hat, Alberta?

26 A. Brick trying to get from Medicine Hat
27 into Hamilton?

28 Q. Yes.

29 MR. SINCLAIR: What kind of brick? Roman
30 brick?



1
2 MR. FRAWLEY: The brick expert! Roman
3 brick.

4 Q. Yes, Mr. Roberts, you and I had a lot
5 of talk about the Roman brick we make in Medicine Hat.
6 We would like to get into eastern Canada to back up some
7 of the Pennsylvania, Kentucky, Ohio brick that comes
8 over?

9 A. That is correct.

10 Q. And you gave us a concession on that rate,
11 and I hope it is moving a lot of brick in, but I am
12 simply suggesting to you that brick from Medicine Hat
13 to Hamilton is traffic captive -- I won't even say
14 to the railways -- it is traffic captive to the
15 Canadian Pacific Railway?

16 A. Not to exploit, though, as we will.

17 Q. But, supposing you just, as my friend
18 Mr. Cooper said to you yesterday -- I was interested
19 in Mr. Cooper's suggestion to you because I had al-
20 ready put brackets around that expression "to exploit
21 as they will".

22 Stopping the sentence there: "People who
23 attempt to make this distinction do so on the assumption
24 that some traffic is the particular and exclusive pre-
25 serve of the railways to exploit as they will."

26 Now, you do not want to discuss it perhaps
27 on any other basis than the full sentence; that is, with
28 the words "to exploit as they will" added on. That is
29 the way you really want to discuss it?

30 A. Well, Mr. Frawley, as I said yesterday,



1
2 and I think it was yesterday, to Mr. Brazier, there is
3 no such thing as captive traffic, because if the rate
4 is getting too high by rail there is an alternative
5 mode of transportation. They use it, or they will use
6 a substitute product, or they will use different
7 sources of supply.

8 Q. Yes. But let us first get what you
9 mean in this sentence. I have no right to take those
10 words out, because you wrote them, but will you discuss
11 it with me on the basis, as if it read: "People
12 who attempt to make this distinction do so on the
13 assumption that some traffic is the particular and
14 exclusive preserve of the railways." Stopping there?

15 A. Yes, sir.

16 Q. Are you willing to discuss it with me
17 stopping there?

18 A. Yes, sir.

19 Q. That means that you say we are under a
20 mistaken assumption when we assume that some traffic
21 is the "particular and exclusive reserve of the rail-
22 ways"?

23 A. I consider so, sir.

24 Q. All right. I ask you again about Mr.
25 Sissons' brick trying to get from Medicine Hat to
26 Hamilton. How could he ever get it there except on
27 Canadian Pacific?

28 A. He could get it there presumably by
29 truck, by some level of rate.

30 Q. It would not move by truck, though.



1
2 Supposing it is not attractive to the truck at all;
3 that is an economic fact of life, that at the moment
4 it is not attractive to the truck? How could you
5 get the brick in the quantities necessary to get it
6 into Hamilton? How could you get it in trucks? I
7 do not understand. There are some things that are just
8 not reasonable, Mr. Roberts.

9 A. The brick does move by truck, Mr. Frawley,
10 in large quantities.



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Q. All over Alberta it moves by truck.

A. But in addition to this the producer is in Alberta and the Eastern Canadian market is a great distance away. Now, the range of his market normally would be within Western Canada and we endeavoured to help him to move out into Eastern Canada with a particular type of brick.

Q. All right, I will grant you that but are you saying he should not be trying to get it into Eastern Canada?

A. Well, so far as the brick is concerned it is not a question of he should not be trying, it is a question of what would be his normal market for brick. In this particular instance we endeavoured to assist him in getting brick beyond his normal market because, after all, brick is manufactured in Eastern Canada too.

Q. I am accepting all of these conditions. His brick moving from Medicine Hat to Hamilton, is it not captive to the railway?

A. Well, if he had to get it down there. If it was a question of this was his only market there would not be any other way of getting it down there, he would not establish a plant in Medicine Hat or Radcliffe to take care of Eastern Canada.

Q. Of course, he was the only brick plant in Canada, was he not, making roman brick?

A. I think there was in Montreal, but the type is not as good.



1
2 Q. Naturally, it would not be as good. My
3 suggestion to you -- do you recall at the time of our
4 negotiations that this plant at Medicine Hat was the
5 only one making roman brick in Canada?

6 A. I would accept that.

7 Q. And he had what everyone thought was a
8 legitimate desire to push some of the roman brick from
9 Kentucky and Pennsylvania, some of it anyway, and he
10 went to you for a rate?

11 A. Yes.

12 Q. And you did give him a concession?

13 A. Yes.

14 Q. And all that is in the record. All I
15 am getting back to is the meaning of "captive". All
16 I am putting to you is that Mr. Sisson's brick was
17 captive to you?

18 A. Insofar as the Eastern Canadian market
19 is concerned I would agree with you but his normal
20 market is in Western Canada.

21 Q. All right. We have a slight concession
22 insofar as his market in -- well, that is about the
23 only traffic, I do not know whether you got any more
24 or not but you do not get too much traffic out of
25 Medicine Hat except that you do down to those low, low
26 truck competitive rates and that is how you move the
27 brick out of Medicine Hat going into all the
28 construction jobs in Alberta?

29 A. It may be in Alberta but there is also
30 Saskatchewan and Manitoba to consider.



1
2 Q. And I suppose Mr. Sisson has moved
3 some brick into Saskatchewan and Manitoba?

4 A. I would imagine so.

5 Q. How do you think he gets it into
6 Manitoba?

7 A. By rail.

8 Q. By rail?

9 A. And some by truck.

10 Q. Do you think he was moving any
11 quantities of brick from Medicine Hat into Winnipeg
12 by truck?

13 A. Well, I do not know.

14 Q. How about traffic up on the N.A.R.?
15 How about the traffic from Edmonton to Waterways, that
16 is not very vulnerable to truck transportation, is it?

17 MR. SINCLAIR: With all due respect to my
18 learned friend, we are not here to answer for the
19 N.A.R. and the witness in the box has no control over
20 the N.A.R. If Mr. Frawley wants to deal with the
21 N.A.R. he had better subpoena the chief traffic officer
22 of the N.A.R. We are not answering for the N.A.R.,
23 Mr. Chairman.

24 MR. FRAWLEY: My friend is not answering for
25 the N.A.R. Now, that is the first time -- the N.A.R.
26 is our own Alberta railway and he now says if I want
27 to know anything about the N.A.R. I have to go and talk
28 to Mr. Cooper about it or whoever is the Canadian
29 Pacific or Canadian National nominee at the moment.

30 MR. SINCLAIR: We are presenting the position



1
2 of Canadian Pacific and we are not presenting the
3 position of the N.A.R. They have their own board of
4 directors, their own traffic officers.

5 THE CHAIRMAN: Well, we need not waste time,
6 if the witness knows anything he should tell us, because
7 the Commission wants to know.

8 MR. SINCLAIR: He has never worked on the
9 N.A.R.

10 MR. FRAWLEY: Well, if that is the attitude
11 of the Canadian Pacific Railway and the Canadian
12 National -- although I have not heard from them but I
13 imagine they will take the same point of view -- I
14 cannot say anything else about the N.A.R. I certainly
15 do not intend to bring Mr. Cooper, if he is still there,
16 down from Edmonton to discuss the N.A.R. I will leave
17 it to the Board that they might look at it and find this
18 word "captive", this being a limited definition of
19 captive that the Canadian Pacific officers are giving,
20 whether or not that is present on the N.A.R. that runs
21 through hundreds and hundreds of miles of muskeg to
22 get up to Waterways from Edmonton.

23 Q. Now, page 14, you make the statement
24 that because the competitive traffic is more pervasive
25 in some areas than in others that that does not mean
26 in any general revenue cases this traffic is being
27 called upon to bear an unfair burden or unjust
28 proportion of the increase.

29 A. That is right.

30 Q. I put it to you that the facts demonstrate



1
2 quite the opposite that it was demonstrated in the
3 17% case, confirmed by the exhibit which you yourselves
4 filed, that the traffic is being called upon to bear
5 burdens in disproportion one kind of traffic against
6 the other.

7 A. No, sir, because in my estimation this
8 simply indicates that the revenue yield so far as the
9 17% increase was concerned in terms of dollars, there
10 was as much came from Ontario and Quebec as there was
11 from Western Canada.

12 Q. Exhibit 162?

13 A. Yes, sir.

14 Q. You are talking about it area-wise,
15 region-wise, and I am talking about it traffic-wise and
16 I am saying traffic-wise the statement shows there is an
17 obvious disability in the contribution made by
18 various traffics.

19 A. The different types of traffics, that
20 is correct, competitive versus normal but the fact
21 remains that dollar-wise this statement shows,
22 exhibit 162 shows that the Ontario-Quebec territory
23 contributed in terms of dollars as much as Western
24 Canada.

25 Q. Well, that is no great surprise to you
26 looking at the industrial complex in Ontario and Quebec.
27 When you look at the population figures you would be
28 greatly surprised if the dollars were not more in
29 Ontario and Quebec than in Western Canada?

30 A. How do you mean?



1
2 Q. You point to this exhibit as showing
3 an absence of disability when you are speaking of this
4 situation region-wise?

5 A. Well, I gave some figures to Mr. Mauro
6 yesterday and put them in the record but so far as the
7 revenue in relation to the service performed ---

8 Q. What does that mean?

9 A. Well, service performed is revenue ton-
10 miles, that is a measure of service. Taking the traffic
11 within the West and Ontario and Quebec to the West the
12 revenue in relation to service performed in terms of
13 ton-miles, the revenue was \$1.00 for every 51 ton-miles
14 of service within Ontario and Quebec. From the West to
15 Ontario and Quebec the ratio was \$1.00 to every 50 ton-
16 miles of service.

17 Q. Is that all composite on this exhibit
18 162?

19 A. It is taking the types of traffic that
20 I mentioned here, it is just normal I am speaking of.

21 Q. Well now, I find looking at normal on
22 exhibit 162 that the normal traffic within Ontario
23 and Quebec produced \$231,000. This is just a sample,
24 of course?

25 A. That is right.

26 Q. And the traffic -- the same traffic within
27 the West produces \$373,000?

28 A. Correct.

29 Q. But the next column, I call to your
30 attention the revenue within the West at normal rates



1
2 represent 41.9% of the total while the same
3 amount of revenue within Ontario and Quebec only
4 represents 26.1% of the total.

5 A. That is right and what I am saying to
6 you is that all the West is paying relatively for the
7 service performed is exactly the same as the East.

8 Q. But I say that the proportion of high
9 rates, we will call them relatively high rates, normal
10 rates, certainly higher than competitive or agreed
11 charges, I say in the West the percentage of those
12 kind of rates to the total is 41 as against 26. That
13 is what we have been talking about.

14 A. The percentage of normal?

15 Q. Yes.

16 A. In relation to the total normal?

17 Q. That is right.

18 A. Revenue-wise it is 41%, 41.9%.

19 Q. That is right and in the great big
20 provinces of Ontario and Quebec which I think has two-
21 thirds of the population of Canada the percentage of
22 these high rates is only 26%?

23 A. Yes, and it pays in performance for the
24 service it receives.

25 Q. I suppose they are all paying for the
26 service they receive in Ontario and Quebec as we do.
27 I simply point out to you something that confirms what
28 we have been pointing out to you that in the West these
29 class rates and non-competitive commodity rates are
30 more pervasive in Western Canada than Eastern Canada?



1
2 A. There is a larger segment of traffic
3 moving at commodity rates in Western Canada.

4 Q. Now you, of course, point out at page
5 18 -- you have some figures drawn from exhibit 162 and
6 you say:

7 "It will be seen from the foregoing
8 comparisons that the percentage of increase
9 paid by the various regions on the average
10 was approximately the same."

11 A. That is correct, sir.

12 Q. Well, would you just take a look at
13 another one of them? I do not suppose it matters very
14 much but take the compilation at the bottom, the
15 summary at the bottom and you have a figure there of
16 -- take anyone of them, take this figure within the
17 West and you show there that within the West the
18 percentage increase in revenue was 11.1%?

19 A. Yes, sir.

20 Q. Now, am I right when I say that is made
21 up by the 15% -- line 7?

22 A. Correct.

23 Q. The 12.3% -- line 17?

24 A. That is right.

25 Q. And the 0% -- line 27?

26 A. That is right.

27 Q. Well, that is where you get 11, you get
28 11 very quickly from 15 and 7 when you have 0% on
29 agreed charges. I put it to you that that is the only
30 way in which you can refer with any satisfaction to the



fact that the increase in the West is not above average or is reasonable compared to the rest of the country. You have no increase in agreed charges.

A. The fact remains that in total the revenue resulting from the increase in Western Canada was \$63,000 or 11.1% and from the increase within Ontario and Quebec it was \$65,000 or 11%.

Q. Yes, but the increase if it had not been for the decreased figure rate of 27 you actually get a lesser revenue from your agreed charges between those two dates and that would obviously, as a matter of revenue, cut it down. I have no desire to pursue it any further, Mr. Roberts, I just felt that perhaps that had not been sufficiently recognized that the absence of any agreed charges would necessarily work to bring it down.

A. If you look at line 14 you will see the return from competitive rates within Ontario and Quebec was \$34,000 and within the West was \$17,000.

Q. Yes, because there are more of them, there is a great volume of traffic in central Canada.

A. It shows there is increased revenue being obtained from those competitive rates.

Q. I do not think there is any one bold enough to say that they were not. Now, would you turn to page 22 and you make a point right at the top of the page talking about horizontal percentage increase with hold-downs you say:

"In addition, this method would result in



1
2 some traffic that could take the full
3 increase not doing so ---"

4 I want to call your attention to those
5 words, "that could take the full increase not doing
6 so". Now, it is basic to you, is it not, that certain
7 traffic can take an increase and, therefore, should
8 take an increase.

9 A. That is true, it should bear its
10 proper proportion.

11 Q. Regardless of the fact that before you
12 approach them to put the increase on you find that
13 they are making excessive contributions to overhead.

14 A. I say that they are not making excessive
15 contributions in the light of the rate structure
16 reflecting the value of service to move the different
17 types of traffic that we have to move in Canada.

18 Q. That is the way you put, Mr. Roberts.
19 I say that they are excessive in terms of percentages
20 of overhead and when I use the word "excessive" I only
21 mean it in the sense that they are relatively excessive
22 contributions to overhead. You say if the furniture
23 can absorb big increases without appreciable falling
24 off in sales of traffic and you say to just let that
25 traffic take the full increase.

26 A. I think that is the proper approach
27 to keep basic material moving.

28 Q. And you would say that even if the
29 increase was 300% of variable costs?

30 A. I would say if the traffic was moving at



1
2 the rate before the increase we should at least attempt
3 to get the full increase on that traffic.

4 Q. And you say that, you say it should take
5 the full percentage of the increase and that you should
6 make the 300% on variable cost, 325% and perhaps the
7 next one is 350%. There is no limit at all so long as
8 you say that traffic can stand it without falling off
9 in revenue.

10 A. Yes, sir.

11 Q. And you say because the traffic moves
12 freely.

13 A. That is right, sir.

14 Q. And I say to you if the furniture store
15 in Edmonton needs furniture that they have simply to
16 go to you to get it through or the people of Edmonton
17 will go without furniture and still you say it moves
18 freely?

19 A. It moves in accordance with the demands
20 of the market.

21 Q. But all that does is, it means that the
22 furniture importer simply adds on that extra freight
23 cost to the consumer and the people of Edmonton going
24 in to buy have just that much higher rate of revenue,
25 that is, the freight rate you have put on 100% on that
26 particular traffic.

27 A. And other factors?

28 Q. What other factors?

29 A. Well, wages, cost of materials, it is
30 not all transportation.



1
2 Q. But if he pays you 17% because you have
3 had to pay a wage award and so on, if he pays you 17%
4 on the laid down cost of his furniture then he passes
5 that on to the people who come into his store in
6 Edmonton.

7 A. And the same way he puts it on when the
8 wages go up.

9 Q. Yes, but it does not bother you for a
10 minute that side by side with that situation you move
11 hundreds of thousands of tons of traffic on agreed
12 charges and get your one cent to each ton-mile and no
13 increase?

14 A. We are always endeavouring to maximize
15 our revenue. We are, of course, working to get agreed
16 charges, do not say it is not bothering us.

17 Q. Just let me take you up on that last
18 statement. You are always endeavouring to maximize
19 your revenue?

20 A. Yes.

21 Q. And as far as I am concerned with this
22 situation, I think, as disclosed today, you are
23 maximizing it at the expense of the class rate and
24 non-competitive, are you?

25 A. No sir, I would not agree with that.

26 Q. Now, let us go to page 31 where you refer
27 to what the Canadian Electrical Manufacturers
28 Association put forward and you say you could not
29 accept their suggestion of a graduated percentage
30 increase. You say:



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Roberts, cr.ex.
(Frawley)

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"As I indicated earlier, there is no
regular pattern of taper in specific commodity
rates, competitive rates and agreed charges."

You say because of the rate of taper not
being the same you could not accept the suggestion of
the Canadian Electrical Manufacturers Association.
That is right?

A. That is right. That is one of the
reasons, Mr. Frawley.



1
2 Q. But you are increasing competitive rates
3 every day and every week by a variety of percentages?

4 A. Depending upon what we can get.

5 Q. Of course; by a variety of percentages
6 as dictated by the forces of competition?

7 A. But originally we can have a flat increase
8 -- we try to get a flat increase. We may get 10 per
9 cent. We may be able to hold 10 per cent or 6 per
10 cent.

11 Q. Well, I will give you "E" for effort,
12 Mr. Roberts, but you are just not able to put on the
13 percentage increases with any uniformity?

14 A. Yes, but if we had a graduated scale of
15 percentage increases some of the traffic on which we
16 are able to hold that 10 per cent increase we might
17 only get, on the graduated scale, 6 per cent.

18 Q. But I am disturbed by you telling me
19 and the Canadian Electrical Manufacturers Association
20 that you could not accept the suggestion of a graduated
21 percentage increase because of the fact there is no
22 uniform rate of taper?

23 A. In certain scales.

24 Q. Yes, in certain scales, and I put it
25 to you that that does not frighten you at all when it
26 comes to putting on a great variety of percentage
27 increases in your competitive rate structure?

28 A. We don't put on a great variety. We
29 apply the flat increase to begin with. What com-
30 petition brings about is another thing.



1
2 Q. But in the end result you put on 17
3 and take off 10 which leaves you with 7; or you put on
4 17 and take off 5 and it leaves you with 12?

5 A. That is correct.

6 Q. Sure.

7 A. We might get 10 per cent of it, and yet
8 under a graduated scale only apply 7 per cent.

9 Q. Just emphasizing and re-emphasizing the
10 distortion in the freight rate structure, but at the
11 moment I want to call your attention to the fact I
12 find it somewhat intriguing that you would run away
13 from the suggestion of the electrical manufacturers, when
14 they suggest you are doing that every day with the com-
15 petitive rates?

16 A. Not in that manner, sir.

17 Q. On page 32 I want to ask you about some-
18 thing that struck me rather forcibly. In the first
19 full paragraph, the first sentence, on page 32 you
20 say "This method . . ." -- and that is still the
21 graduated percentage increase -- "This method has the
22 disability of increasing the burden on short haul
23 shippers and introducing the relief on long haul ship-
24 pers without any evidence to show that this would be
25 equitable or necessary."

26 A. That is correct.

27 Q. Mr. Roberts, you have said many times
28 that the Board of Transport Commissioners is not an
29 economic planning agency?

30 A. That is right.



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Q. And should not be?

A. That is right.

Q. But you regard yourself as being a sort of an economic planning agency, apparently?

A. No, sir.

Q. Well, why is it your concern that the relief to the long haul shippers would not be necessary? Who is to say it is necessary?

A. The free movement of the goods proves whether it is necessary or not, sir.

Q. Why should there be any onus on the long haul shipper to show that the relief which would result in some amelioration of this horizontal percentage increase method was either equitable or necessary? Why should the onus be on him to show that it is necessary?

A. Mr. Frawley, the traffic is moving at a certain level of rates in relation to all the rates in the freight rate structure, and we apply the flat increase proportionately over all of the rates.

Q. I put it to you, you know, Mr. Roberts, very sincerely that a lot of these ideas you have about what is necessary to the shipper come from the fact that you are dealing with middlemen and it doesn't matter very much how much freight they pay because they pass it on to the consumer?

A. No; we are dealing day to day with the shipper.

Q. With the shipper?



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A. Yes, sir.

Q. With the traffic officers of the big shipping companies?

A. That is correct.

Q. And what does the traffic officer of a big shipping company care, except to the extent a freight rate increase affects his individual corporation and its shareholders?

A. He does care in so far as the movement of traffic is concerned into the markets.

Q. If you charged him an extra 17 per cent and he can get that extra 17 per cent from the people who buy his goods, whether they are peanuts or chesterfields, what does it matter to him?

A. I think it is important to him, sir.
I think it is important to him.

Q. Well, I think you have been living too long with blinkers on as a traffic officer?

A. No, sir.

Q. And you think it is not enough that you should look, when you are talking about what is necessary or equitable, to the long haul shipper?

A. Well, sir, we look at the service we give him and apply the increase proportionately.

Q. And you don't think it is quite sufficient to look at the excessive contribution that he is making in that long haul rate -- class rate or non-competitive rate -- maybe 200 or 300 or 400 per cent of out of pocket costs -- that is not any particular



1
2 concern to you in and of itself?

3 A. What contribution we get from a rate of
4 that level assists in moving traffic that does not pay
5 near that level; in other words, the basic commodities.

6 Q. And you say, having made that little
7 algebraic equation, that that is fine -- "I end right
8 there"?

9 A. Well, this is recognizing the necessity
10 to move all different types of traffic in this country.

11 Q. That is the way the Canadian freight rate
12 structure functions today?

13 A. Yes, sir.

14 Q. And that is why I said to you this
15 morning -- and you will forgive me if I repeat it --
16 that perhaps the most important issue this Commission
17 has to decide is whether or not that kind of freight
18 rate structure, which was before the Governor General
19 in Council when he set up this Commission, is good
20 enough in Canada today? Isn't that an issue before
21 this Commission?

22 A. It is an issue: the rates and the method
23 of applying rate increases.

24 Q. And you don't think that the concomitant
25 fact that while I am paying 200, 300 or 400 per cent
26 on out of pocket costs, that Mr. Sinclair over here who
27 happens to be a receiver of skelp in Vancouver is only
28 paying the out of pocket plus some -- because I will
29 go along with him; by law you must get something
30 more than variable, depending how you cost the variable,



1
2 of course -- it doesn't matter to you that I am paying
3 200 or 300 per cent -- in and of itself -- on out of
4 pocket, and Mr. Sinclair is just paying out of pocket
5 plus a sliver more?

6 A. If it does not matter to us we would
7 not endeavour to maximize our net revenue by handling
8 traffic out to the coast at competitive rates.

9 Q. I say you are trying to maximize it
10 at the expense of the receiver who is paying 200, 300 or
11 400 per cent of out of pocket costs?

12 A. No, sir.

13 Q. Now, Mr. Roberts, will you look at page
14 36. I would like to analyse with you for a moment
15 what you say at the end of that top paragraph, "The
16 position of the traffic officer is similar to the
17 position of this Commission in that all shippers in
18 all areas of Canada must be considered and advantages
19 to one area or any shipper over another or action
20 detrimental to the railways must not be approved."
21 Now, I put it to you that the shipper whose traffic
22 lends itself to rate treatment by agreed charges, and
23 takes no increase when increase time comes around,
24 is advantaged -- he is advantaged vis-a-vis the
25 shipper on the N.A.R., if you will allow me once more
26 to commit a sacrilege and refer to the N.A.R. --
27 who ships and receives his freight at class rates or
28 non-competitive commodity rates?

29 A. One is a question of competition. That
30 is why we have the agreed charges.



1
2 Q. Fine, but I say regardless of those
3 reasons which put you in a straitjacket -- I admit
4 that -- but regardless of the basic underlying condi-
5 tions, it is the end result we are dealing with, and I
6 put it to you that the shipper whose business lends
7 itself to treatment of agreed charges and who pays a
8 rate which is averaging -- and the last figure I saw --
9 and somebody in Canadian Pacific was very anxious to
10 call my attention to it -- was 2. something cents per
11 ton mile. But, whatever it happens to be, and after
12 it is costed out -- whatever its returns over variable --
13 I say that that class of shipper is advantaged under the
14 present Canadian freight rate structure as against the
15 shipper who finds because of the lack of competition
16 or because of the nature of his movement that he has
17 to pay class rates or non-competitive commodity rates?

18 A. First, the class of traffic that is handled
19 under agreed charges is pretty general in nature. It is
20 not any particular type.

21 Q. Well, if it was not, it certainly is now,
22 Mr. Roberts.

23 A. And the agreed charges that are in cover
24 all types of traffic to meet different kinds of competi-
25 tion as and where they exist. That is the reason for
26 them.

27 Q. That is right.

28 A. And other than that, shippers in Canada
29 are treated on the same basis.

30 Q. Other than what you are forced to do by the



1
2 forces of competition, other than that, the shippers
3 of Canada are treated very fairly and on an equitable
4 basis?

5 A. In my estimation, yes, sir.

6 Q. Now, Mr. Roberts, will you tell the
7 Commission, if not now -- and I don't know how much
8 information you have brought -- but I would like to
9 know the percentage of increases effected in 1960 by
10 reason of the escalator clauses in the agreed charges?
11 I would like that revenue-wise and tonnagewise. I
12 would like to know how successful you have been in
13 getting the shippers to pay you more money under their
14 contracts or enter into contracts which contemplate
15 them paying you more money?

16 A. There haven't been any on which increases
17 have automatically applied under the modified escalator
18 clause because there has not been any increase authorized
19 within the 12 months' period the contracts have been
20 in effect.

21 Q. Oh, yes, I see. Even the escalator
22 clause only allows you to go to them and obtain more
23 money on the basis of the rates which the Board has
24 authorized?

25 A. Increases, sir-- after they have been in
26 effect for a period of twelve months.

27 Q. But there is nothing in the contract
28 which enables you to go to the contract holder and say,
29 "Our costs have gone up now. We can demonstrate that
30 to you, and we want an increase now in the amount of



1
2 this agreed charge."?

3 A. It is always subject to negotiation, yes.

4 Q. Well, it is that kind I mean.

5 A. Yes.

6 Q. You tell me there has been no authorized
7 increase because of the government freeze order?

8 MR. SINCLAIR: I will make this shorter, Mr.
9 Chairman, and say this on behalf of the company, that
10 we will make a check and see how many -- the dollar
11 amount of increases that have been made through negotia-
12 tion on the agreed charges from the period January 1st to
13 the end of September -- would that be all right, Mr.
14 Frawley?

15 THE CHAIRMAN: And the tonnage.

16 MR. SINCLAIR: Well, tonnage -- I don't know;
17 it means we have to go and get out waybills and material
18 like that.

19 MR. FRAWLEY: Oh, no, you are too busy to do
20 that.

21 MR. SINCLAIR: Just the money -- you don't
22 want either of them?

23 MR. FRAWLEY: Oh, yes. You said getting the
24 tonnage would be an extraordinary effort.

25 MR. SINCLAIR: We will get the money -- an
26 estimate on it.

27 MR. FRAWLEY: Yes, get the money and I will
28 hold in reserve any future application after I see the
29 money.

30 Q. Mr. Roberts, I have only one more thing



1
2 to talk to you about, and that is with regard to what
3 you say at page 39 with regard to what you call the
4 "At and East" rates?

5 A. Yes, sir.

6 Q. I don't know why you call them that, but
7 let us not take time to go into that. You say there
8 that you were getting ready to put those rates up?

9 A. Yes, sir.

10 Q. And then you found that the United States
11 railways to meet seaway competition sort of spoiled that
12 because they reduced the grain rates from United States
13 lake ports to the eastern United States seaboard?

14 A. Well, you are going back a year now.
15 They were reduced in September, 1959.

16 Q. Yes. On page 39 you say, "In 1959
17 the United States railroads to meet seaway competition
18 reduced the grain rates from United States lake ports
19 to the eastern United States seaboard."

20 A. That is right.

21 Q. Then you say, "It was obvious that the
22 hope of bringing the low 'At and East' grain rates to
23 a proper level by continued increases was not going to
24 be realized."

25 A. That is right.

26 Q. What I don't understand is when you go
27 on and say that later on you then decided you were going
28 to make an investigation, and Mr. Edsforth told the
29 Commission he was making an investigation?

30 A. Yes.



1
2 Q. And so, you had your foreign traffic
3 officers instructed to study the rates to all ports
4 and, "to develop a basis which would assure that all
5 movements were compensatory and were making the maximum
6 possible contribution. This matter is being actively
7 progressed and it is anticipated that increased rates
8 will be filed with the Board in the near future."

9 A. Yes, sir.

10 Q. How can you file higher rates if the
11 United States railways have reduced their rates, and
12 the "At and East" rates are geared to these American
13 rates between Buffalo and New York?

14 A. The relationship between the two sets
15 of rates was lost in September when the United States
16 lines reduced their rates from Buffalo to New York.

17 Q. All right.

18 A. Now, we can't continue to handle traffic
19 which does not make a full contribution to variable cost
20 plus something more, and we know this is the situation
21 in so far as West Saint John is concerned, and it is
22 our object to bring the rates up so that they will meet
23 at least variable costs and something more.

24 Q. And then the traffic will go from
25 Buffalo to New York?

26 A. This is Canadian grain, and I don't think
27 it will.

28 Q. Well, why were you concerned that the
29 United States -- why do you say at page 38, "For many
30 years 'At and East' grain rates were maintained on a



1
2 competitive relationship basis with the rates on grain
3 from Buffalo to New York"?

4 A. That is correct, for many years, but
5 finally we came to the situation where the United States
6 railways reduced their rate and we haven't found there
7 has been any diversion of traffic as a result of that.

8 Q. All right, but why were you maintaining
9 your "At and East" grain rates -- Canadian rates --
10 at the competitive relationship basis with the rates
11 on grain from Buffalo to New York if, as you have just
12 told me, you don't think Canadian grain will go from
13 Buffalo to New York?

14 A. This is what we have found to be the case
15 since the reduction in the rate from Buffalo to New
16 York. We don't feel there has been any loss of
17 traffic to the port of New York as a result of the
18 reduction.

19 Q. You mean for years and years you kept
20 the "At and East" grain rates on a competitive rate
21 basis with the rates on grain from Buffalo to New York,
22 and now you learn you need not have done it at all?

23 A. You must realize these "At and East"
24 grain rates have been taking increases regularly in
25 accordance with the rates from Buffalo to New York.
26 They have been moving up and, as I say in the precis
27 of evidence, we had hoped that they would be on a
28 remunerative basis with the upward movement of the
29 rates from Buffalo to New York, but this reduction
30 last September -- as a result of that we realized that



1
2 this was not going to be accomplished.

3 Q. And you also realized that what you had
4 been doing for years probably wasn't a necessary
5 situation at all?

6 A. Well, I think it was accepted as a
7 necessity, certainly at the outset of the movement and
8 for years thereafter, that there was a competitive situa-
9 tion existing between Buffalo and the Bay ports in
10 Canada for Canadian grain.

11 Q. There may have been, but somewhere along
12 the line it ceased to exist, but you didn't find that
13 out until 1959?

14 A. The rates were being increased right
15 along and moved traffic through West Saint John.

16 Q. Well, they certainly must have been
17 low because as of the 8th of April, 1960, the rate on
18 grain ex lake for export from Port Colborne to Halifax
19 just returned you 6/10ths of a cent per ton mile?

20 MR. SINCLAIR: Port Colborne to Halifax
21 belongs to my friend Mr. McDonald.

22 MR. FRAWLEY: Q. Oh, well, this is the fact,
23 anyway, that you would be glad to get it? If you had
24 a line into Halifax you would take all of that traffic
25 you could get?

26 MR. SINCLAIR: I would say, Mr. Chairman, the
27 witness is not going to be here discussing the movements
28 of the Canadian National. It is hard enough for us to
29 look after the Canadian Pacific.

30 MR. FRAWLEY: Q. Do you have a rate like



1
2 that to Saint John?

3 A. We have, sir.

4 Q. And it returns you about the same -- a
5 little less, maybe? .655 cents per ton mile -- 18
6 cents a car mile earning -- that is what the Canadian
7 National get on grain from Port Colborne to Halifax.
8 How much better do you do from X to Saint John, New
9 Brunswick?

10 A. I think you are looking at ---

11 Q. I am looking at CNE 56-4. Do you know
12 what the Canadian Pacific counterpart to that is?

13 A. I don't, no, but our revenue per ton
14 mile would be higher.

15 Q. Because you have a few miles shorter?

16 A. Yes.

17 Q. You stop at Saint John?

18 A. Yes, sir.

19 Q. You don't take it over on the Princess
20 Helene to Digby?

21 A. No, sir.

22 Q. Well, the "At and East" grain rates have
23 always been a mystery to me, and, as far as I am con-
24 cerned, they are just as big a mystery now.

25
26
27 ---Short recess.
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2 THE CHAIRMAN: Order, please.

3
4 BY COMMISSIONER GOBEIL:

5 Q. Mr. Roberts, when Mr. Brazier discussed
6 with you the effect of the general increase on class
7 rates, he asked you if you lose any traffic, class
8 rated traffic to trucks, and you said yes?

9 A. Yes, sir. There is a loss of class
10 rated traffic to trucks, on occasions, yes, sir.

11 Q. I was thinking that instead of losing
12 it, that you would place competitive rates?

13 A. Well, we also publish competitive rates
14 to take care of situations, to regain that traffic when
15 it gets away from us, sir, or in an endeavour to regain
16 it.

17 Q. Yes. You may lose it, but most of the
18 time you are gaining it back again by competitive rates?

19 A. By competitive rates, sir.

20 Q. And he also asked you if you have even
21 considered reducing your class rates to move more
22 traffic?

23 A. Well, sir, ---

24 Q. Is it not by definition a class rate
25 never reduced?

26 A. The class rate, of course, is the
27 ceiling rate to take care of the movement of traffic
28 that is not general in nature. This is largely
29 speaking. Regular movements of traffic are taken care
30 of by normal commodity rates and competitive rates and



1
2 agreed charges; large blocks of traffic.

3 Q. Would I be right in saying that by
4 definition the class rates are never and should never
5 be reduced, since they are the maximum?

6 A. They are the ceiling, sir, on which the
7 rate structure is based, and they are related, of course.
8 We use the class rates as the basis in connection with
9 our general revenue cases involving permissive level of
10 earnings. It is based on the class rates. This is the
11 basis for our rate structure. We work from that.

12 Q. Later on, Mr. Brazier, in discussing your
13 famous exhibit 162, brought out that idea of population
14 or per capita for the central provinces and the western
15 provinces. And Mr. Smith emphasized that, too.

16 I do not see very well what it has to do with
17 the central provinces, if they spend \$5.00 per capita and
18 the west, \$13.00, except that it would mean that they
19 use more; the railways; that is all. But you said, also,
20 if they would have the same ton-miles and if they would
21 be paying three times as much, then it would be different.
22 But you said that each dollar will get the same ton-mile
23 either in the central province or in the west?

24 A. That is correct, for each dollar paid
25 for service, they received 50 ton-miles of service. In
26 the case of within the west and traffic from Ontario
27 and Quebec to the west, the ratio of revenue of \$1.00
28 to service was 51 ton-miles of service. And within
29 Ontario and Quebec, plus from western Canada to Ontario
30 and Quebec, the ratio of revenue of \$1.00 to service, or



1
2 50 ton-miles of service. So, proportionately, they
3 each receive the same amount of service for the price
4 they paid.

5 Q. Those figures given by Mr. Brazier
6 simply show that the west is using two to three times
7 more ton-miles than the center of Canada?

8 A. Because of the extent to which the
9 population is scattered over the large area. We have
10 a concentration in Ontario and Quebec.

11 Q. But I was surprised at those figures you
12 gave because the west is supposed to have long haul,
13 and on long haul you have tapering, so it should be
14 cheaper there per ton-mile?

15 A. Well, the taper is in the long haul,
16 but I ~~was~~ dealing with within western Canada, and within
17 Ontario and Quebec, sir, you see. Included in that
18 was the traffic from the west to the east. That was
19 included in with the Ontario and Quebec and from the
20 east to the west, which was included with the within
21 the west figures.

22 Q. Yes. But in the west, you would have
23 your grain, though, which reduces your costs much?

24 A. Well, the grain was not included in
25 those figures, sir.

26 Q. Are those figures there, if the grain
27 is eliminated, based on service; is that a good basis
28 for comparison?

29 A. Well, this was a comparison of traffic
30 moving on normal commodity rates, Mr. Gobeil.



1
2 MR. MAURO: Just a moment, Mr. Roberts. It
3 was in reply to my question that you provided those
4 figures. Do you say they were traffic terminating in
5 the east as compared with that terminating in the
6 west?

7 THE WITNESS: No, sir, there was two, as
8 I said.

9 COMMISSIONER GOBEIL: Q. In this costing
10 captive traffic that Mr. Cooper discussed with you --
11 I do not want to go into that captive traffic again,
12 the definition, but since you said there was no
13 captive traffic, Mr. Cooper asked you why we should
14 have a regulatory body. You said that you want
15 regulation on the freight rates.

16 Are you satisfied with the present
17 regulation you have? Do you consider that you have
18 sufficient freedom in establishing your freight rates?

19 A. Yes, sir; yes, sir, I do.

20 Q. You are happy the way the situation
21 stands now?

22 A. Yes, sir, insofar as the making of rates,
23 competitive rates, and agreed charges, yes, sir.

24 Q. The C.N.R. suggested some amendment to
25 the Railway Act in connection with freight rates. You
26 do not feel that those amendments would be necessary?

27 A. Is that section 334?

28 Q. I think it is 328 and 334, yes.

29 A. Well, the 334, sir, is the competitive
30 rate section and it is certain information which may be



1
2 required by the Board should they investigate any
3 particular competitive rate. The information is based,
4 Mr. Gobeil, in assessing a competitive situation, so
5 therefore we would require to have that information in
6 our records to satisfy ourselves, so I do not think
7 that is any hardship so far as Canadian Pacific is
8 concerned.

9 Q. Yes. You had a long discussion, of
10 course with Mr. Brazier on the British Columbia
11 proposal, and I took some notes when you talked with
12 him. Your first objection, you said that it will be
13 much more complex than it is now for the freight
14 structure?

15 A. Yes, sir.

16 Q. And the second reason, you said, was
17 that it would be more expensive to administer, and
18 then you put the third reason, that it would bring
19 different normal commodity rates in different parts of
20 the country?

21 A. Yes, sir.

22 Q. Which do not exist at the present time?

23 A. That is correct, sir.

24 Q. What objection would there be to that,
25 since you have different rates competitive in different
26 parts of the country; what difference would it make
27 to have it with the class rates, or the normal commodity
28 rates?

29 A. Well, of course, this is an overall
30 situation, Mr. Gobeil, whereby we could have conceivably



1
2 one rate, normal rate, for 200 miles of haul in
3 western Canada, mileage-wise. And, for a haul of
4 a similar distance in eastern Canada, the rate, because
5 of the terminal service or branch line service, because
6 of higher operating costs, could be higher than the
7 rate in western Canada or vice versa for a normal
8 rated movement.

9 Overall, in normal traffic, why, we consider
10 that the rates should be on the same basis all over
11 Canada. Competition will take care of any adjustments
12 wherever they occur.

13 Q. Yes. Your fourth objection, and I
14 think that was the main one, you said that if this was
15 done you could not meet competition, and the C.P.R.
16 would go into deficit and go bankrupt eventually. I
17 think that was your main reason.

18 To find out if I got how you will become
19 deficit and eventually go bankrupt, may I ask you if
20 what I have here is correct?

21 You said that you have some competitive rates
22 which are much higher than fully distributed costs; is
23 that right?

24 A. Yes, sir.

25 Q. And, second, on the other hand, you had
26 some competitive rates which not only were lower, but
27 which had to be much lower than fully distributed costs?

28 A. There are some competitive rates, sir,
29 that are lower than fully distributed costs, yes, sir.

30 Q. So the C.P.R. could not live with those



1
2 competitive rates, if they have only those which are
3 lower than fully distributed costs?

4 A. We could not live with rates on that
5 basis, sir, no.

6 Q. Then, you have some traffic which is
7 captive because it is too low for competition, and that
8 is why the other mediums of transport do not touch it;
9 so, with this one, too, you could not live?

10 A. That is correct, sir, because we have
11 the primary commodities moving all over Canada: the
12 fruits, vegetables, limestone, coal, such basic
13 materials as that, which move on normal commodity
14 rates.

15 Q. The only two you make money on -- real
16 money -- is the normal class rates or normal commodity
17 rates and the competitive rates which are higher than
18 fully distributed?

19 A. Well, it is a balancing system, sir,
20 that we try to obtain the best contribution we can
21 from all types of traffic.

22 Q. Yes, but that is the only two groups,
23 though? It is not on the captive traffic, which is low,
24 and it is not on the competitive traffic, which is
25 lower than fully distributed?

26 A. Well, it is the class rated traffic
27 and competitive traffic and agreed charge traffic,
28 generally speaking, that makes a very good
29 contribution. This higher rated traffic offsets the
30 instances where we do not get our full contribution,



1
2 due to reasons of competition or necessity to move
3 the traffic freely.

4 Q. And so if the British Columbia principle
5 was applied, your normal class rate will be able to
6 get just the fully distributed, plus a certain
7 percentage?

8 A. That is correct, sir.

9 Q. As a result, that class rated traffic
10 will be lower than some competitive rates?

11 A. That is correct.

12 Q. And those who are shipping at
13 competitive rates will come to you and they want to be
14 at the class rate, too, and you lose that competitive
15 traffic?

16 A. This is where we see the trouble, Mr.
17 Gobeil, that naturally people shipping under competitive
18 rates higher than what might be the maximum-- this is very
19 noticeable-- would have to prove that their traffic was
20 captive, and therefore subject to the ceiling rates,
21 which would be lower.

22 Q. And in a few words, in a nut shell that
23 is why you say it will be a deficit and eventually
24 bankrupt?

25 A. That, sir, plus the fact that the
26 ceiling would only be increased to reflect the cost
27 in wages?

28 Q. Yes, no more than 200?

29 A. That is right, sir.

30 Q. And you would not be able to meet the



1
2 competition any more with your traffic which is below
3 fully distributed costs; you have no money left to
4 spend?

5 A. Well, this would be the eventual
6 result, sir.

7 Q. From what you say -- Mr. Sinclair,
8 when he cross-examined Dr. Roberts, the other Roberts,
9 Dr. Roberts, gave a quotation by him, where Dr. Roberts
10 said that competition cannot perform effectively if
11 its basic function is restricted. The case you mention
12 now -- that is where it would apply?

13 A. That is correct, sir.

14 Q. Your competition would be restricted?

15 A. Competition would be restricted, yes.

16 COMMISSIONER GOBEIL: Thank you.

17
18 BY COMMISSIONER MANN:

19 Q. Mr. Roberts, something that arose out
20 of the question of Commissioner Gobeil put to you as
21 to whether you were completely happy with the present
22 rate regulation. Your answer, as I understood it, was
23 an unequivocal yes; you are happy with the present
24 rate regulation as administered by the Board of
25 Transport Commissioners?

26 A. I think I am also on record previously,
27 Commissioner Mann, to that effect.

28 Q. I have not had much time to think about
29 the implications of that answer, as it only took place
30 about a minute or so ago, but I do remember not very



1
2 long ago that both railways made application to the
3 Board for greater freedom in increasing competitive
4 rates which now have to be published on 30 days'
5 notice.

6 Now, there is one thing that you would like
7 to have undone; is that not so?

8 A. Well, provision is made in the revised
9 tariff circular, sir, to publish competitive rates.
10 There is more freedom in doing it. In other words
11 we can under the circular publish a rate, say, next
12 Monday and file it with the Board, a spot rate, to
13 take care of a movement that happened today.

14 Q. No, Mr. Roberts. Note that I did not
15 say "publish"; I said "increase".

16 A. Increase?

17 Q. Yes?

18 A. Oh, yes, sir. That is right.

19 Q. You have to give 30 days' notice to
20 increase a competitive rate and you and the Canadian
21 National made application to the Board not very long
22 ago to get greater freedom with regard to that time
23 limit?

24 A. Yes, sir, that is correct.

25 Q. So, there is one way in which the
26 present rate regulation is restrictive as far as both
27 railways are concerned?

28 A. In that respect, yes.

29 Q. I have not had time to think of any
30 other example, but that was what came to mind.



1
2 Now, Mr. Smith and Mr. Frawley discussed
3 the "at and east" grain rates with you, Mr. Smith,
4 coming from where he does, has a very understandable
5 interest, and Mr. Frawley has spent so much time in
6 the east that he, perhaps, follows Mr. Smith very
7 closely. There was one remark that you made at that
8 time which I was very interested in. You said to Mr.
9 Smith, and I believe also to Mr. Frawley, that you
10 do not expect there to be any diversion of traffic at
11 all either to U.S. ports or to other Canadian ports
12 as a result of increasing the "at and east" rate to
13 West Saint John; is that correct?

14 A. This is grain?

15 Q. Yes?

16 A. That is correct, sir.
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2 Q. Now, the rationale of the "At and East"
3 grain rate was the provision of a Canadian route for
4 grain for export to Canadian ports as opposed to the
5 routing of grain through American channels?

6 A. That is right.

7 Q. And it was because of that that the
8 "At and East" rates were, in a sense, port related
9 rates?

10 A. In the original instance, yes, sir.

11 Q. And because they were port related rates
12 they took American increases rather than Canadian in-
13 creases?

14 A. That is right.

15 Q. But largely because of the aggressive
16 action of New York Central this relationship was dis-
17 turbed?

18 A. Right -- it was destroyed.

19 Q. And it is for that reason you now feel
20 that increase can be put on at least one port of the
21 "At and East" rate, namely the rate to West Saint John
22 which you say is non-compensatory?

23 A. Well, of course, we do not intend only
24 increasing the rates to West Saint John. The other
25 St. Lawrence River ports will also be increased.

26 Q. I was going to ask you about that. You
27 say now that the rationale of the "At and East" rates,
28 namely their relationship to the U.S. rates has been
29 destroyed. Is it your suggestion that in future
30 "At and East" rates will be increased in line with



1
2 Canadian increases rather than American increases?

3 A. I would not like to make a statement in
4 that respect at the moment, because of the basis, the
5 method which we use to arrive at the new rates.

6 Q. You mean the relationship to variable
7 cost?

8 A. No, sir, the relationship to existing
9 rates.

10 Q. But in the first instance am I right in
11 saying that what you do as a key, as an anchor for your
12 new rate structure is to bring your rate to West Saint
13 John up to a compensatory level within that definition
14 of compensatory?

15 A. That is right.

16 Q. Well, it presumably will go in the rates
17 to Montreal, Three Rivers and Quebec too?

18 A. That is right.

19 Q. If you do not expect any diversion of
20 traffic as a result of increasing the rates to these
21 points?

22 A. We do not anticipate any diversion of
23 rate traffic.

24 Q. Why is that?

25 A. I think the grain will move through West
26 Saint John to fill the elevator in any event.

27 Q. In spite of the rate level?

28 A. Well, you see, there will be a certain
29 movement by water but they also on occasion have to use
30 rail because of certain grain being required quickly or



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2 some such reason as that. The movement, as we show
3 in our statement, is not very great in relation to the
4 total movement of grain in this country.

5 Q. But whatever that volume is it will
6 always, independent of the rate level, move by rail?

7 A. I would say subject to the normal
8 fluctuations in demand and necessity of moving grain
9 traffic by rail down there.

10 Q. Is that not a good example of captive
11 traffic?

12 A. Well, no. I think -- well, when they
13 have to ship it by rail because of a certain reason,
14 why, it could be considered captive traffic. But,
15 then if it got entirely out of line they would make
16 other arrangements and not ship it.

17 Q. Of course, I think you and I both under-
18 stand that captivity varies with the rate level, that
19 if my rate were orbital there is no captivity as long
20 as the costs of competitive agencies stay low?

21 A. Yes.

22 Q. Subject to that qualification it would
23 be captive traffic within a zone of reasonableness of
24 movement?

25 A. That is right.

26 Q. Well, now, you had a very interesting
27 discussion with Mr. Cooper about selective increases.
28 Mr. Cooper, I think, suggested to you that the present
29 method of increase, as we know it in general revenue
30 cases, was in reality a selective increase rather than



1
2 a horizontal increase and you did not agree with that?

3 A. That is right.

4 Q. I wonder whether perhaps what kept you
5 and Mr. Cooper apart was just a question of terminology.
6 As I understand it, Mr. Roberts, and correct me if my
7 understanding is wrong, when you assess your need for
8 a revenue increase, when you try to arrive at the per-
9 centage which goes into the application made by the
10 railway association on behalf of the railways to the
11 Board, you do so after very careful study?

12 A. Yes, sir.

13 Q. And in that study, in the course of that
14 study you draw very heavily on your own experience and
15 that of the senior traffic officers at head office and
16 with all the officers in the field?

17 A. That is correct, sir, plus commencing
18 with 1956, the 7 per cent increase, we carried on a
19 very exhaustive study as to the effects of the increase.

20 Q. Yes, I was expecting you to say that.
21 I have here Volume 1029 of the Board of Transport
22 Commissioners Transcripts and I was looking up today
23 the evidence given by Mr. Edsforth in the 17 per cent
24 increase case. I am looking at the precis of evidence
25 given by Mr. Edsforth during those proceedings and for
26 identification the precis is headed "Memorandum in
27 respect of railway revenues -- railway revenues, year
28 1958." This is to be found at page 8366 of Volume
29 1029, and the pages immediately following. This is a
30 quotation from page 8367:



1
2 "In June, freight traffic representatives
3 throughout Canada, and the United States were requested
4 to survey the traffic situation in their territories and
5 prepare an estimate for the last six months of 1958.
6 They were asked to confer with shippers, review results
7 up to that time and take into account known developments
8 which would affect the traffic volume as compared with
9 the last six months of 1957.

10 "These reports which were received early in
11 July were reviewed by Officers at headquarters and in
12 August and September were tested by several statistical
13 analyses and against general knowledge of conditions as
14 they developed."

15
16 Now, that just bears out what I said earlier, namely
17 that there was a very careful check made of the traffic
18 conditions and reference is made in this transcript to
19 that survey on the 7 per cent and 11 per cent increases
20 that you mentioned earlier?

21 A. Yes. I think the first statement refers
22 to the procedure we follow in developing an estimate of
23 revenues.

24 Q. Yes. Now, as a result of these
25 extremely careful checks made by experienced traffic
26 people at headquarters and in the field, you then arrive
27 at erosion and attrition ratios?

28 A. No. If I may say so, the reference
29 Mr. Edsforth is making there, I believe, has to do with
30



1
2 our estimate of revenues. As I say, since 1956 following
3 the 7 per cent increase in 1956 we kept a very close
4 check of what tariff action had to be taken following
5 the effective date of the increase where it had to be
6 removed and the revenue involved. Now, that was
7 used as a basis in the second hearing with the 11 per
8 cent increment and so on. We filed statements at that
9 time and we continued to study and the basis of that
10 study was used in connection with the next increase.

11 Q. So, actually it is a continuing study.
12 You started out with the 7 per cent and carried it on
13 bringing it up to date with the 11 per cent and you did
14 the same thing before you came to the Board asking
15 for a 19 per cent increase?

16 A. Yes, sir. We studied the situation at
17 that time in connection with what we had developed.

18 Q. And on the basis of that you were able
19 to come to the conclusion that on competitive traffic
20 there would be an erosion and attrition ratio of
21 50 per cent and on normal traffic there was an erosion
22 ratio of 22 per cent?

23 A. Twenty per cent, I think Canadian National
24 was 22 per cent.

25 Q. Well, therefore, you were able to tell
26 in large features, not in minor detail, as to each
27 and every rate you were able to tell in large features
28 and regarding the non-peak blocks of traffic whether
29 they could be increased or not?

30 A. Well, I would not say that we knew for



1
2 sure. We had to test to see what the reaction would
3 be but we felt that overall, not on any particular block
4 of traffic, we felt that the return or the yield would
5 be from the increase in competitive rates 50 per cent
6 and normal rates 80 per cent.

7 Q. I understand that, but I am a little
8 puzzled by this: if you did not know, if you could not
9 identify any block of traffic and you were just dealing
10 with a great big amorphous and working out your erosion
11 and attrition ratios then I am at a loss to understand
12 how you could make a decision to exempt the incentive
13 rates from the 17 per cent increase. You must have
14 had prior knowledge that the incentive rates on that
15 circuit in central Canada and the western ones just
16 could not be increased?

17 A. That is true, in so far as these two
18 rates were concerned. They were the only two excep-
19 tions but we did hope that we would be able to include
20 the increase on these rates but at the last moment we
21 were not able to do it.

22 Q. I am not suggesting that you could be
23 absolutely sure as to whether or not blocks of traffic
24 could take an increase but I would think that people
25 who work on these competitive rates and are fully con-
26 versant with the competitive situation from coast to
27 coast were to make a pretty shrewd guess as to whether
28 you could increase rates on liquid propane gas over
29 70 or 75 miles.



1
2 COMMISSIONER MANN: Q. Someone has just
3 mentioned bricks -- or whether I could increase any set
4 of competitive rates, both of us would know, you would
5 know, and with that in mind I was going to suggest to
6 you if all these individual judgments were taken to-
7 gether it was easier for you to arrive at your 50 per
8 cent attrition and erosion estimate?

9 A. Well, there is the judgment of the
10 intensity of the competitive agency by our field offices
11 -- that is quite right.

12 Q. Mr. Edsforth referred to that in his
13 evidence before the Board two Octobers ago?

14 A. That is right.

15 Q. So in that sense, you see, there is a
16 selection made in advance of the horizontal increase
17 and you have, in a manner of speaking a selective
18 increase instead of just a flat across-the-board
19 without any regard paid by Canadian Pacific and Canadian
20 National as to the impact?

21 A. Well, no, sir. I am sorry, but I just
22 could not go along with you because some traffic, it
23 might be possible to hold 10 per cent of the increase
24 and other traffic 90 per cent and so on. It is a
25 little too fine to reach a conclusion on.

26 Q. I understand that -- I am sorry, did I
27 interrupt you?

28 A. No, sir.

29 Q. I was not suggesting that you sit down
30 and say to yourselves "We are now going to make a



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2 selective increase," but I was wondering whether you had
3 any large features, quite a pretty good idea as to what
4 traffic the increase could go on and what traffic it
5 could not go on and, in a sense, determine the per-
6 centage which you must get from the Board in order to
7 cover your revenue deficiency. This is the sum total
8 of these individual judgments that make for the
9 erosion?

10 A. Oh, yes, that is right.

11 Q. So you see, the thing I was coming to
12 is simply this, that we have a selective increase not
13 as it is understood in the United States, namely, before
14 the event, but we have a selective increase in the
15 Canadian context after the increase has been authorized?

16 A. That is right, and depending upon
17 intensity of the competition.

18 Q. Well, coming to another step, Mr. Roberts,
19 again in the discussion you had with Mr. Cooper you
20 mentioned that -- I do not think you want us to believe
21 that is the only reason for regulation but you mentioned
22 that regulation in your opinion was to protect you --
23 to put it in a very crude form -- from the Canadian
24 National Railways.

25 MR. SINCLAIR: Mr. Chairman, I very seldom
26 ever object to the way a court puts a question and I
27 know you said it was put in a very crude form, but I
28 think the witness did not put it that way. As I
29 recollect his words they qualified that to quite a
30 degree and I would not want anybody to get the idea --



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2 the reason I rise is, I would not want anybody to get
3 the impression that from my knowledge of the answer as
4 I recollect it, that he was saying that this was here
5 but he was saying -- we can likely argue this at another
6 time but I think it is important seeing you put it this
7 way, that we in the Canadian Pacific see the situation
8 in the Mexican state railway where they are used to
9 putting men to work for social purposes. We see in
10 France it is going on with the state railways. We
11 see it in other places being used to develop areas
12 without respect to transportation costs.
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2 COMMISSIONER MANN: Perhaps the modification
3 can be this --

4 MR. GOBEIL: It is page 17690.

5 MR. SINCLAIR: I think the answer was given
6 this morning.

7 COMMISSIONER MANN: I made a note of it, and
8 perhaps I will come to that now.

9 Q. I did preface my remarks by saying that
10 it was putting it in a rather crude way, and perhaps I
11 should have asked the question this way: that there
12 was need for regulation so as to ensure that there was
13 no unfair competition between the railways in Canada;
14 you agree with that?

15 A. That is right, sir.

16 Q. And your fear, Mr. Roberts, as you
17 expressed it so very well in reply to Mr. Carter this
18 morning was that you were afraid of political rate
19 making, and he said, in the future?

20 A. Yes, sir.

21 Q. And you and I know there is no political
22 rate making in Canada today?

23 A. That is right.

24 MR. SINCLAIR: With respect to grain.

25 COMMISSIONER MANN: Q. Supposing there were
26 statutory guarantees that the Canadian National Railways
27 could not make any rates that had a political connotation
28 -- supposing it was clearly spelled out that no rate
29 in Canada, on the National or any other railway, could
30 be above variable costs: would that fear still be with



1
2 you?

3 A. Could be above?

4 Q. Could be below -- I am sorry: could be
5 below variable cost. Would that fear still be with you
6 if we made sure there was no political rate making in
7 the future on any rate?

8 A. Well, in the Act, sir?

9 Q. Whatever form that statute may take --
10 you and I are at the same disadvantage: neither of us
11 is a lawyer.

12 A. Well, I think, sir, that there is a
13 regulation already in the Railway Act to provide for
14 the situation and that should take care of it.

15 Q. Well then, why the fear that there would
16 be political rate making, which I suppose means there
17 would be rate making which would not cover the variable
18 cost and would be in the nature of destructive competition?

19 A. Well this is -- that there be no control
20 whatsoever, as I understand the question -- no control
21 whatsoever, sir?

22 Q. Other than the minimum rate base on
23 variable cost and, if you will, some contribution
24 above that to overhead.

25 A. That is all right.

26 Q. Well, why should we have regulation --
27 and you said earlier you are happy with the regulation
28 today? Why should we have today's regulation at all?
29 Why is it necessary?

30 A. In respect of the minimum rate control?



1
2 Q. No, rates generally, other than minimum
3 rate control: no maximum control, no publication of
4 tariffs in the form that it takes place now -- no unjust
5 discrimination or undue preference?

6 A. I think, sir, that tariffs certainly
7 should be published, that people know what price they
8 are paying for the product they receive.

9 Q. So that, in that respect regulation is
10 necessary for the protection of the shipper?

11 A. Yes, sir.

12 Q. You see, actually we have got to go a
13 little further than saying regulation is necessary for
14 the railways to protect the Canadian Pacific from the
15 other railways and the other railways from the Canadian
16 Pacific.

17 A. What you had in mind is that a special
18 rate may be given to another shipper and not another.

19 Q. That brings up another point, and I was
20 going to ask you about this: if, as you say in your
21 precis, all rates in Canada are competitive...?

22 A. Yes, sir.

23 Q. If competition is pervasive throughout
24 the entire country to roughly the same intensity, why
25 do we need to worry about undue discrimination and undue
26 preference? Does it not follow, then, that there can be
27 no worry about this on the part of the shipper because
28 he has always got an alternate means of transportation
29 available? Why should he concern himself with whether
30 or not he is unjustly discriminated against by the



1
2 railways?

3 A. Or a substitute product -- these are
4 other factors: a substitute product or a substitute
5 source of supply which he has available.

6 Q. Oh yes, the full range of that.

7 A. Yes.

8 Q. But why bother with it, you see?

9 A. I think it is, sir, a matter of
10 psychology that people in western Canada would not like
11 to think that the people in eastern Canada were receiving
12 the same sort of service -- or vice versa -- something
13 better than they were?

14 Q. Why should they be worried if they have
15 got alternate means of transportation that are fully
16 effective, fully competitive, and everybody has got the
17 same chance?

18 A. They may not wish at the present level
19 to take advantage of the alternate mode of transportation.

20 Q. I do remember -- and I do not know whether
21 you were in those proceedings -- I know Mr. Sinclair and
22 Mr. Edsforth were there during the second Turgeon
23 Commission when your company, I believe it was, brought
24 Mr. David Blee from Britain to testify to the situation
25 there and, as you know, under the Transport Act of 1953
26 in Great Britain there is no more unjust discrimination
27 and undue preference; that has gone.

28 A. That is right.

29 Q. And it is my understanding that no-one
30 is very unhappy about it -- no-one misses it?



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2 A. Well, I do not think it is being
3 practiced under the law, the question of unjust
4 discrimination -- I do not think it is being practiced.
5 My understanding is that the same basis of rates --
6 what they get back to is treating everybody alike, and
7 they are on that basis.

8 Q. In Britain -- but they do not have to
9 under the Act?

10 A. They do not have to, that is quite true.

11 Q. They do not have to even publish rates?

12 A. That is right.

13 MR. FRAWLEY: They do not file their agreed
14 charges.

15 COMMISSIONER MANN: Q. Even under that very
16 free and easy and wide swinging Act in Great Britain
17 you have got section 22, and that section gives shippers
18 whose goods can only be sent by rail the right to
19 complain to the Transport Tribunal if they consider
20 the charges are unreasonable. Even there it is found
21 necessary to protect some sort of traffic --- call it
22 captive -- they have a definition there -- to protect
23 some sort of traffic under the law by section 22 of
24 the Transport Act in 1953. There is in Britain some
25 sort of captive traffic, otherwise that would not have
26 been put in.

27 A. There is coal traffic, I would say.

28 Q. Yes, that is one kind. I think this
29 is consignments over 100 tons, and so on.

30 A. Yes.



1
2 Q. And that in spite of the fact that Mr.
3 Blee, I recall told us or admitted at the time in
4 evidence that there was greater substitutability in
5 Britain as between various modes of carriage, bearing
6 in mind the capacity of the British railway car is
7 roughly the same as that of a British truck.

8 A. Yes, sir.

9 Q. Which is not the case in Canada?

10 A. That is right, it is not the case.

11 Q. So in spite of that greater substitutability
12 -- and the average hauls are shorter too -- in spite of
13 that substitutability there was need for putting that
14 section 22 in the Act?

15 A. Well, this is in the Act, of course. I
16 cannot say that.

17 Q. It looks to both of us as if there was
18 some sort of captive traffic in Britain, and that the
19 criterion was that the charges must not be unreasonable
20 and that the reasonableness of the charges had
21 something to do with the defining of whether or not
22 traffic was, in fact, captive.

23 A. This is what you could take from that
24 section, Mr. Mann.

25 COMMISSIONER MANN: Thank you very much, Mr.
26 Roberts.

27 BY COMMISSIONER PLATT:

28
29 Q. Just to follow this a little further:
30 what about maximum rates? Is there any real justification



1
2 for having maximum rates in Canada any more? Obviously,
3 you are not worried about competition between railways
4 and that sort of thing?

5 A. No, as I said, I think the need for
6 maximum rates is more psychological than anything else,
7 that people will wish to see in the statutes some
8 prohibition for protection, that the rates just will not
9 become over excessive.

10 Q. Yes, is that not putting a rather heavy
11 burden on your company, which I understand spends a
12 great deal of money and time up here before the Board
13 of Transport Commissioners and preparing cases and are
14 delayed, or have been in the past, in being able to
15 raise the maximum?

16 A. Another feature I mentioned was the
17 maximum permissive level of earnings. This is the
18 second feature I mentioned in connection with the
19 maximum level of rates, and this is something I think
20 people would require in the statutes insofar as the
21 railways are concerned.

22 Q. Well, the fact that there may have been
23 some justification for this at some time in the past
24 does not necessarily mean there is justification for it
25 now. Is there any real reason why the earnings of your
26 company should be limited any more than the earnings of
27 mine?

28 A. No, sir.

29 Q. Well, why should we support something
30 which is wrong?



1
2 A. Well, as I said, my only answer to the
3 maximum rate control was the psychological angle of it.

4 COMMISSIONER MANN: Thank you.

5 RE-EXAMINATION BY MR. SINCLAIR:
6

7 Q. During Mr. Frawley's cross-examination in
8 regard to exhibit 162, he made reference to the fact
9 that rates working on through bills on combinations over
10 the border would not have been reflected in the revenue
11 figures in exhibit 162: do you remember that questioning
12 by Mr. Frawley?

13 A. Yes, sir.

14 Q. And during that questioning the Chairman
15 -- Mr. MacPherson -- said to you, "how big is this?
16 How much is there of this traffic?", and you said in
17 answer to him, "It is not large ..." -- and I am trying
18 to remember your words, and I have my note here, and it
19 may not be exact, but you can correct me if I am wrong
20 -- "It is not large in relation to ..."?

21 A. "... the total".

22 Q. "... the total". That, of course, is
23 relative, and I was wondering if you could inform the
24 Commission of the results of studies, if you recall
25 them, that have been made by the company in connection
26 with general revenue cases and other types of cases in
27 which we have made some estimates of the dollar value,
28 and relate that to the 1% sample. Can you recollect
29 the figures?

30 A. Yes, sir.



1
2 Q. Would you please tell the Commission
3 that, so that it will get into some kind of
4 perspective ---

5 MR. FRAWLEY: Well, "perspective" -- I was
6 talking about exhibit 162. Are we now going to hear
7 about something that happened in the 15% case?

8 MR. SINCLAIR: No, I am trying to clarify it
9 into some more useful figure. The other thing, "it is
10 not large ..." -- I am just trying to put to the witness
11 ---

12 THE CHAIRMAN: The "at and east" figures?

13 MR. SINCLAIR: No, sir. These are the
14 combinations and a proportion that the revenues in
15 relation to the other revenues were on these combination
16 figures.

17 MR. FRAWLEY: I know what he is going to do.
18 He is going to pick up my suggestion that the farm
19 machinery was important -- the farm machinery moving
20 from American factories into western Canada, because
21 they are not now in exhibit 162, and if Mr. Roberts has
22 been able since this morning's cross-examination to tell
23 us how important they are -- and I do not know what he
24 is going to say.

25 MR. SINCLAIR: Well, why do you not wait and
26 see.

27 THE WITNESS: Well, sir, we did analyse the
28 traffic moving through the western border gateways last
29 year and re-examined the figures earlier this year,
30 and in terms of dollars it was just under \$ 4 million.



1
2 Q. So, if you relate that \$4 million to the
3 1% sample, 1% of \$4 million is ...?

4 A. \$40,000.

5 Q. So, in relation to the figures here, this
6 matter we are dealing with is \$40,000, and that can be
7 calculated across into the percentages?

8 A. Yes, sir.

9 Q. That was not the first time you made those
10 studies: we have made them in Canadian Pacific at other
11 periods in relation to other cases too?

12 A. That is right, sir.

13 Q. And I take it you will recall at one
14 other time in a general revenue case we actually gave
15 an estimate of a figure of something like 2.5 million?

16 A. Yes.

17 Q. Many years ago?

18 A. Yes, many years ago.

19 Q. I think at the request of Mr. Frawley.
20 Now, Mr. Frawley had a discussion with you about Mr.
21 Sissons' brick out of Medicine Hat, and he put to you
22 -- and you cleared it up in later evidence in answer to
23 my friend ---

24 MR. FRAWLEY: Well, if he cleared it up, then
25 you do not need to.

26 MR. SINCLAIR: Well, just a minute, please.

27 Q. At the time the rate was negotiated it
28 was at the request of a shipper to ~~move~~ traffic?

29 A. That is correct.

30 Q. Against competition from traffic coming



1
2 from the United States?

3 A. That is right.

4 Q. And at that time there was not a
5 manufacturer in Canada serving that market or able to
6 serve that market with Roman brick manufactured in
7 Canada?

8 A. With Roman brick manufactured in Canada.

9 Q. That is right, and the alternative source
10 of supply of the buyer was the United States?

11 A. Was the United States, that is right.

12 Q. And this traffic from Alberta, the
13 Roman brick, to the Toronto market was highly competitive
14 with an external source of supply?

15 A. Correct.

16 Q. And then, in answer to my friend you
17 agreed with him when he put ---

18 MR. FRAWLEY: Ask him some questions, Mr.
19 Sinclair?

20 MR. SINCLAIR: Well, I do not know that I
21 have put anything wrong here yet; I am just moving into
22 the question.

23 MR. FRAWLEY: He is your own witness, and it
24 is just a very fundamental old, old rule.

25 MR. SINCLAIR: Well, if you would wait, I
26 think I can now come to the crucial part of the question.

27 Q. In answer to my friend, Mr. Frawley --
28 and you agreed with his statement, according to my
29 note -- this, then, insofar as Mr. Sissons' brick to
30 eastern Canada was concerned would be captive to you



1
2 because it could only be moved by you. What did you
3 mean by that? And I hope my friend now recognizes the
4 classical nature of the way I have put it?

5 MR. FRAWLEY: I can appreciate your endeavour
6 to retrieve yourself from an embarrassing answer.

7 MR. SINCLAIR: It is only my duty not to have
8 the Commission under misapprehension because Mr. Roberts
9 may have given an answer that would be more meaningful
10 to the Commission if he were given the opportunity I
11 have now given him.

12 MR. FRAWLEY: You can be more meaningful than
13 he can.

14 THE WITNESS: Well, the fact of the matter was
15 that if the brick did not move from Medicine Hat it would
16 move into that market from other sources of supply in
17 the United States.

18 Q. And when you say "captive" to Mr.
19 Commissioner Mann, do you use it or do you not in the
20 same kind of context?

21 A. That is right.

22 Q. Mr. Commissioner Mann asked you why you
23 thought there might be a necessity for unjust
24 discrimination and undue preference legislation in view
25 of the pervasiveness of competition, and your answer to
26 him was that when you were looking at these kind of
27 matters of regulation you were considering the
28 psychological effects, even though they were not
29 necessary. Would there or would there not be any
30 necessity, in your view, for legislation regarding undue



1
2 preference or unjust discrimination in relation to the
3 substitutionality of products and alternative sources
4 of supply in contra-distinction to carrier competition
5 or market competition?

6 A. I am sorry I do not quite follow that
7 question.

8 THE CHAIRMAN: Well, we will adjourn now until
9 10 o'clock tomorrow morning.

10
11 --- Adjournment ---
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